

**AN ORDINANCE AMENDING CHAPTER 51 OF
THE CITY OF FORT WAYNE CODE OF LAWS.**

WHEREAS, the City of Fort Wayne has several areas within its borders which are not currently served by a public sewer and wishes to provide for both the orderly residential development and the proper disposal of sewage from residential properties; and

WHEREAS, the City of Fort Wayne wishes to provide for a basic threshold level of knowledge and registration for all installers of septic systems to insure the proper construction, installation and inspection of septic systems on real estate adequately suited for this type of disposal of sewage, based on current technology and state regulations; and

WHEREAS, City Utilities has not, in the past, requested deposits based on sewage consumption despite Indiana Code 36-9-23-28 specifically providing for such deposits in order to protect the financial stability of the sewer utility.

WHEREAS, pursuant to Indiana Code 36-9-23-25, the Common Council of the City of Fort Wayne has enacted a User Charge System and a Sewer Use Ordinance as contained in Chapter 51 of the Fort Wayne Code of Ordinances; and,

1 **WHEREAS**, State law (I.C. 8-1.5-38) states that rates and charges of
2 municipally-owned utilities are unlawful if too low to produce income sufficient to
3 maintain the utility property in a sound physical and financial condition to render
4 adequate and efficient service; and,

5 **WHEREAS**, a Sewer Task Force was created by the Mayor of the
6 City of Fort Wayne for the purpose of recommending a plan of improvement to the
7 City's municipal sewage works; and,

8 **WHEREAS**, the Sewer Task Force has on October 21, 1996,
9 presented a nine point plan of improvement including increased maintenance and
10 evaluation of the City's sewer system and a capital improvements plan requiring the
11 investment of \$9 million per year to address combined sewer capacity issues; and,

12 **WHEREAS**, the Mayor of the City of Fort Wayne has accepted and
13 endorsed the recommendations of the Sewer Task Force; and,

14 **WHEREAS**, the City of Fort Wayne engaged the services of
15 Municipal Consultants to review the current financial position of the Water Pollution
16 Control Utility in light of the above legal requirements and Task Force
17 recommendations; and,

18 **WHEREAS**, Municipal Consultants prepared and submitted to the
19 City of Fort Wayne the results of the above-mentioned review and has made
20 recommendations therein regarding adjustments to the current Water Pollution
21 Control Utility rates and charges, said report being dated March 21, 1997; and,

22 **WHEREAS**, upon review of said report and recommendations, the
23 Board of Public Works of the City of Fort Wayne, in accordance with I.C. 36-9-23-

1 25, as amended, and Section 51.079 of the Fort Wayne Code of Ordinances, found
2 on April 9, 1997 that existing rates and charges for the use of and services rendered
3 by the Water Pollution Control Utility do not provide sufficient revenue to:

- 4 (a) Pay all expenses incidental to the operation of the works,
5 including legal expenses, maintenance costs, operating
6 charges, repairs, lease rentals, and interest charges on bonds or
7 other obligations; and,
8 (b) Provide the sinking fund required by section 21, [I.C. 36-9-23-
9 21] of this chapter for proposed debt; and,
10 (c) Provide adequate money for improving and replacing the
11 works; specifically those projects recommended by the Sewer
12 Task Force and endorsed by the Mayor; and,

13 **WHEREAS**, on said date the Board of Public Works found it in the
14 best interest of the Fort Wayne Water Pollution Utility, in order to provide income
15 sufficient to maintain the utility property in a sound physical and financial condition
16 and to render adequate and efficient service to its users while implementing the
17 recommendations of the Sewer Task Force, that the sewage rates charged to all user
18 classes be amended according to the recommendations of Municipal Consultants,
19 Inc. dated March 21, 1997, and further recommended the Common Council of the
20 City of Fort Wayne otherwise amend Chapter 51 of the City of Fort Wayne Code of
21 Ordinances in order to more equitably charge all Sewer Utility users.

22 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
23 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

24 **SECTION 1.** That the following sections or subsections of Chapter
25 51 of the City of Fort Wayne Code of Laws be amended, added or deleted as follows:
26
27
28
29
30

Sec. 51.001 Definitions.

- c) **"BIOCHEMICAL OXYGEN DEMAND (BOD)"** - the quantity of dissolved oxygen, in milligrams per liter, required during the stabilization of the decomposable organic matter by aerobic biochemical action of sewage, sewage effluent, polluted waters or industrial wastes under standard laboratory procedures for five days at 20° centigrade. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.
- j) **"CHEMICAL OXYGEN DEMAND (COD)"** - a measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.
- m) **"COMPLIANCE SAMPLE"** - a sample taken of a User's effluent approximately thirty (30) days after a violation of this Chapter, the User's permit or the Federal Pretreatment Standards and Regulations has been discovered or reported. The User shall be billed for any Compliance Sample taken.
- n) **"COMPOSITE SAMPLE"** - the sample resulting from the combination of discrete wastewater samples taken at selected intervals while the discharge rate is at or above normal based on an increment of either flow or time. Time intervals between discrete samples not to exceed 2 hours. The total duration of collection shall not exceed 24 hours.
- aa) **"OPERATION AND MAINTENANCE COSTS"** - all costs direct and indirect, other than debt services including replacement costs as defined in Section 51.001 (ii), necessary to insure adequate wastewater treatment on a continuing basis conforming with federal, state or local requirements and to insure long-term facilities management.
- ff) **"RANDOM SAMPLE"** - A sample taken at no charge to the User, at the City's discretion of effluent produced by any User.
- yy) **"SUSPENDED SOLIDS"** - solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration is expressed in milligrams per liter. Quantitative determinations are made in accordance with procedures set forth 40 CFR 136.
- ccc) **"WASTE SURVEILLANCE CHARGE"** - a monthly charge collected

1 from users, qualifying as industrial or commercial class users, to defray the
2 cost of evaluating that user's waste by metering, sampling, laboratory
3 analysis and/or other methods deemed necessary. Said charges are set forth
4 in Article VII and are subject to review annually as provided in Section
5 51.079.

6 **Sec. 51.015. Requirements for Connection to Public Sewers.**

- 7 g) City Utilities shall have the authority to require an owner of real property to
8 disconnect any downspouts, yard drains or other drains which carry the
9 runoff of natural precipitation from a building sewer which drains into a
10 sanitary sewer, or in areas served by combined sewers where City Utilities
11 determines the additional load placed on the system has been found to be
12 detrimental to properties in that area. Property owners shall have thirty (30)
13 days after notice thereof to comply with any such requirement.

14 **Sec. 51.017 Connections to Sewerage System by Certain Properties Outside**
15 **Corporate Limits.**

16 Notwithstanding the provisions of Sec. 51.016, the Board of Public Works shall have
17 the authority to permit a property located outside the corporate limits of the City to
18 connect to an existing sanitary sewer which is part of the City's sewerage system,
19 when the property abuts, adjoins or is immediately contiguous to the street, alley or
20 easement in which such sewer is located and provided the property owner or
21 occupant has complied with the requirements prescribed by Sec, 51.015 of this
22 Chapter.

23 **Sec. 51.033. Prohibited Discharges and Limitations.**

24 Except as hereinbefore provided, no person shall discharge or cause or permit to be
25 discharged into the public sewer any of the following described substances, wastes or
26 waters:

- 27 a) Any liquid or vapor having a temperature greater than 140⁰ F. (60⁰c), or any
28 wastewater which will cause the WPC Plant's influent to exceed 104⁰ F.
29 (40⁰c).
30
31 b) Any waters or wastes from industrial sources containing more than 100
32 milligrams per liter of total oil and grease (TOG). Acceptable limits for
33 animal-vegetable based fats, oils and grease shall be determined by the Board
34 of Public Works and set out in the Sewer Utility Rules and Regulations. Said
35 maximum limits shall be calculated and set at an amount shown not to cause

interference or obstruction in the collection system and/or sewerage works, and shall be re-evaluated and adjusted as necessary to protect the integrity of the sewer utility.

- d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers for their maintenance or repair.
- e) Any garbage that has not been properly pretreated and reduced per Sec. 51.001(u).

Sec. 51.035. Submission of Data on Industrial Waste.

- c) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall first notify the Water Pollution Control Plant, in writing, and submit a new or revised Baseline Monitoring Report for review by the Superintendent

Sec. 51.040. Waste Analysis Procedures and Charges.

Laboratory procedures used in the examination of industrial wastes shall be those set forth in Code or Federal Regulations 40 CFR 136 or approved EPA methods.

- d) **CHARGES COLLECTED** - All waste analysis charges collected under Section 51.040-a) and b) above shall be recorded as credits to the operating costs of the Water Pollution Control Plant and a quarterly accounting thereof shall be forwarded to the Superintendent. All such charges are to be used to defray the operation and maintenance expenses incurred by the Water Pollution Control Plant in performing said analyses.

PRIVATE SEWAGE DISPOSAL

This subchapter (51.050-51.059) applies to matters under the jurisdiction of the State and Allen County Board of Health.

Sec. 51.050 Definitions.

- (A) The words and phrases used in this subchapter (51.050-51.055) are herein defined, and for the purpose of this subchapter only, shall be

construed as follows, except when otherwise expressly provided.

(1) State Definitions

All definitions set forth in 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(2) Board

“Board” shall mean the Fort Wayne-Allen County Board of Public Health, Fort Wayne, Allen County, Indiana.

(3) Building

“Building” shall mean a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy or persons, fixtures or personal property, and from which there emanates any sewage.

(4) Commercial

“Commercial” shall mean any building which is not a one or two family dwelling.

(5) Department

“Department” shall mean the Fort Wayne-Allen County Department of Public Health, Fort Wayne, Allen County, Indiana, and/or its employees.

(6) Environmental Health Specialist

“Environmental Health Specialist” means an individual as defined in I.C. 25-32-1-1(B).

(7) Health Commissioner

“Health Commissioner” shall mean the Director of Public Health for the Fort Wayne-Allen County Department of Public Health for Fort Wayne, Allen County, Indiana, (designated as “Health Officer” in the state rules and regulations) and/or his/her authorized representative.

(8) Installer

“Installer” shall mean any person who constructs, installs, replaces, alters,

modifies or repairs any residential or commercial sewage disposal system subject to the provisions of this ordinance, other than one which serves his/her/its building. In the event that the person is any association of two or more people, then said association shall designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder.

(9) Permit

“Permit” shall mean a certificate of a size and style approved by the Health Commissioner.

(10) Permittee

“Permittee” shall mean the person who is the owner of the real estate, his/her/its authorized representative, who is responsible for the application of a construction permit and/or operating permit and who shall be responsible for the acceptance of notices at the address listed on the permit applications.

(11) Public Sewer

“Public Sewer” shall mean a sewer to the use of which all owners of abutting property have equal rights and is controlled and maintained by the City or other public authority.

(12) Residential

“Residential” shall mean a building used as a one or two-family dwelling.

(13) Sewage

“Sewage” shall mean the water-carried wastes from residences, business buildings, institutions and industrial establishments, singularly or in any combination, together with such ground, surface and storm waters as may be present.

(14) Soils Scientist

“Soils Scientist” means an individual who is a Specialist or Classifier, registered with the

American Registry or Certified Professionals in Agronomy, Crops and Soils (ARCPACS).

Sec. 51.051 Sewage Disposal.

(A) State Rules

All rules and regulations of 410 IAC 6-8.1, 410 IAC 6-10, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) Public Sewer Available

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial lot line, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

(C) Public Sewer Not Available

All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

(D) Construction of Privy

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner.

(E) Correction of Defects

Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the sanctions set forth in 51.059 subject, however, to the hearing provisions of 51.058.

(F) Adaptation of Residential Systems

Whenever there is any alteration of the structure or change in the use or

occupancy of a residential building that would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

(G) Adaptation of Commercial System

Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

Sec. 51.052 Construction Requirements Of Private Sewage Disposal Systems.

(A) Indiana State Department of Health Requirements

All rules and regulations of 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) "Lot Dimensions"

(1) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agricultural Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet and suitable soils and topography to permit compliance with this chapter.

(2) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated severe for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service shall contain a minimum of two (2.0) acres or 87,120 square feet and suitable topography to permit compliance with this chapter.

(3) A permittee, whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County, Indiana, and recorded prior to the effective date of this ordinance as set forth in 51.059 (I) shall not be prohibited from the construction, installation and eventual operation of a residential sewage disposal system solely

as the result of his/hers/its lot dimensions being less than those set forth above in (1) and (2), provided that he/she/it meets all other requirements of this ordinance.

(C) "On-Site Evaluation"

At least one boring from the submitted septic disposal system location shall be done with a soil auger. A second sample from the submitted septic disposal system location, and any additional confirmation samples, may be taken with a push probe.

(D) Requirements for Septic Tanks

(1) Residential septic tanks shall have the following number of gallons:

- | | |
|--|--|
| a. If the number of bedrooms in a dwelling are one, two, three or four | 1,250 gallon tank |
| b. If the number of bedrooms in a dwelling are five | 1,500 gallon tank |
| c. If the number of bedrooms in a dwelling are more than five | 1,500 gallon tank +
150 gallons x the number
of bedrooms over five |

(E) Final Grade

All distribution boxes shall be extended full size to ground level or final grade.

(F) Access Openings

All septic tanks shall have at least one (1) access opening of at least ten (10) inches in diameter, for each compartment in said tank for inspection and cleaning purposes. All such access opening shall be extended to ground level and shall be fitted with safely secured, gas tight covers.

(G) Abandoned Septic Tanks

Abandoned septic tanks shall be filled with earth, sand or gravel or shall be removed.

(H) Inspection Pipe

Each private sewage disposal system shall have at least one suitable inspection pipe, which shall be accessible to the Health Commissioner at all reasonable times for the inspection or sampling of effluent. If an inspection pipe does not exist, is not in good repair or is not accessible, such fact shall constitute a defect in the system under 51.051(E).

(1) The inspection pipe shall be installed at the far end of one of the absorption lines, or just beyond the last equipment or device in any other treatment system.

(2) The inspection pipe shall be not less than an eight (8) inch riser of Schedule 40, SDR 22 or SDR 26 PVC pipe or vitrified clay pipe extending above the surface of the ground, with a safely secured easily removable cap or cover and with its lower end connected and arranged to permit the collection, by dipping, of an effluent sample.

Sec. 51.053 Construction Permit.

(A) Construction Permit Required

An owner or permittee shall first obtain a construction permit from the Health Commissioner prior to the commencement of any excavation, construction, alteration, repair, modification or addition to any existing or new private sewage disposal system.

(B) Permit to be Posted

No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

(C) Application for Permit

The application for such permit shall be submitted to the Health Commissioner on a form provided by the Health Commissioner and shall be supplemented by any plans, specification and other information deemed necessary by the Health Commissioner or as required by 410 IAC 6-8.1-48.

(D) Permit Fees

Prior to the issuance of any permit, each owner/permittee shall first tender to the Treasurer of Allen County, Indiana, a fee or fees, which shall be deposited into the City-County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule.

- (1) New construction - \$75.00
- (2) Alteration, modification or repair of existing system - \$50.00
- (3) Revision of existing permit prior to construction - \$20.00

(E) Term and Renewal

A construction permit shall be valid for one (1) year from the date of issuance, and may be renewed for up to an additional six (6) months upon application. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

Sec. 51.054 Installers Registration.

(A) Registration Requirements

Except for a person working on his/her/its own private sewage disposal system which serves the dwelling in which he/she/it resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Department as an installer. Persons required to be registered shall be given a grace period of up to six (6) months after the effective date of this Ordinance in which to register with the Department. Application for registration shall be on forms provided by the Department.

(B) Conditions for Registration

- (1) Every person required to register under this section shall be knowledgeable of all laws, rules and regulations of both the state and county governing private sewage disposal systems. Prior to registration, the applicant must demonstrate knowledge of the applicable laws, rules and regulation by passing a proficiency exam conducted by the Department with a score of eight percent (80%) or higher. The registration exam shall be reviewed from time to time to

determine its applicability to current laws, rules and regulations. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for reexamination shall be afforded to an applicant upon request but no more frequently than once per month.

(C) Seminar

At the request of the Health Commissioner, but not more than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Department of the Indiana State Department of Health.

(D) Expiration

Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15 of each succeeding year.

(E) Annual Fee

For a period of six (6) months after the effective date of this Ordinance, registration under this section shall be without fee. After that date, an annual registration fee of \$40.00 will be charged which shall be paid not later than January 31 of each year.

(F) Notice of Violation

Whenever the Health Commissioner determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Commissioner shall give written notice, in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

- (1) A statement of the alleged violation.
- (2) An order allowing a reasonable time for the performance of any act required to correct the violation.

(G) Suspension or Revocation

If the violation is not corrected within the designated time, the Health Commissioner may suspend or revoke the installer's registration subject to

the provisions contained in 51.058 (B), (C) or (D).

(1) If the registration is suspended, the installer may be reinstated by the Health Commissioner upon correction of all violations.

(2) If the registration is revoked, the Health Commissioner shall require, at a minimum, that the installer: 1) be retested; 2) pay the registration fee; and, 3) correct all outstanding violation to the satisfaction of the Health Commissioner prior to being re-registered.

(H) Not Registered

Any person constructing, installing, replacing, altering or repairing any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Ordinance and shall be subject to all penalties set forth in §51.059.

Sec. 51.055 Inspection.

(A) Commencement of Construction

Upon issuance of a construction permit under § 51.053(A), the permittee may commence installation and construction of the private sewage disposal system. The Health Commissioner may inspect the work at any state of construction.

(B) Inspection

Upon substantial completion of the installation, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

(1) No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance and an operation permit has been issued.

(2) The inspection shall be made within two (2) working days of the receipt of notice by the Health Commissioner that the system is ready for inspection.

(C) Issuance of Operation Permit

If the system meets all requirements and is in compliance with the law, the

Health Commissioner shall issue an Operating Permit.

(D) Operating Permit Required

It shall be unlawful for any person to use or operate a private sewage disposal system unless said person possesses a valid operating permit issued by the Health Commissioner.

(E) Valid Period

The Operating Permit shall be valid until there is a change in the use associated with the system. The issuance date shall appear on the Permit. The operation permit is not transferable.

(F) Application for Permit

The application for an operation permit shall be made to the Health Commissioner on forms provided by the Health Commissioner.

(G) Time of Issuance

An operating permit shall be issued within five (5) days of the inspection of the system once the Health Commissioner has determined that the permittee has complied with all applicable provisions of this ordinance, the related state rules and regulations and tendered the appropriate permit fee.

(H) Renewal

Renewal of the Operating Permit is the duty of the permittee.

Sec. 51.056 Maintenance And Sampling.

(A) Sanitary Condition Mandatory

Every private sewage disposal system shall be constructed and maintained so that the effluent leaving the Permittee's system shall be sanitary.

(B) Inspection and Sampling

The Health Commissioner shall be permitted to enter upon any property at any reasonable time to inspect and take samples from a private sewage disposal system. If said test results should indicate a residential or commercial sewage disposal system failure, said failure shall constitute a violation of §51.051(E).

Sec. 51.057 Economic Hardship.

(A) Economic Hardship

In the event an owner/permittee is unable to comply with the provisions of 51.051(B) due to the economic hardship that might be imposed, then the Health Commissioner may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing private sewage disposal system which is operating properly.

Sec. 51.058 Denial, Suspension, Revocation.

(A) Denial and Approval of Permit

- (1) In the event the Health Commissioner determines that the application for the Construction Permit and/or Operating Permit does not meet the standards set forth in this chapter, then the Health Commissioner shall be required to notify the Permittee of such denial in writing, within thirty (3) days of the original application, stating the specific reasons for the denial of the permit.
- (2) Failure of the Health Commissioner to issue a written denial of a permit and/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within thirty (30) days from the date of application of the Construction Permit shall be construed as an approval of the Construction Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Construction Permit.
- (3) Failure of the Health Commissioner to issue a written denial of an Operating Permit and/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within ten (10) days from the date of application of the Operating Permit shall be construed as an approval of the Operating Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the Permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Operating Permit.

(B) Suspension of Permit/Registration

The Health Commissioner may order the suspension of a Construction Permit or Operation Permit or installer registration. The Health Commissioner may order the suspension of a permit or registration for any of the following reasons:

- (1) Failure to meet any of the standards of any of the provisions of this Ordinance or violations of any of provisions of this Ordinance.
- (2) Interference with the Health Commissioner in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Commissioner in the performance of his/her duties.
- (3) At the request of the permittee or installer, a hearing shall be afforded him/her/it within twenty-four (24) hours of the issuance of the written suspension order. Said hearing shall be conducted as set forth in 51.058(E).

(C) Revocation or Permit/Registration

Any permit and/or registration issued hereunder may be revoked by the Health Commissioner as the result of the willful or continued violation of any provision of this Ordinance. No such revocation shall be ordered by the Health Commissioner except after a hearing held pursuant to 51.058(E) upon at least ten (10) days written notice to the owner/permittee/installer of the time, place and nature of said hearing. Said notice of hearing shall be served upon the owner/permittee/installer by leaving, or mailing (certified mail) the notice to the address listed by the owner/permittee/installer at his/her/its address on the permit, application or installer registration application.

(D) Immediate Revocation

Notwithstanding any of the other provisions of this Ordinance, whenever the Health Commissioner finds insanitary or other conditions, which, in his/her opinion constitute an imminent health hazard, he/she may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order shall site the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately. Upon petition to the Health Commissioner, the permittee/installer shall be afforded a hearing within twenty-four (24) hours of the issuance of the written order. Said hearing shall be conducted as set forth in 51.058(E).

(E) Hearing

At any hearing required under this Ordinance, every owner/permittee/installer who is a party to such proceeding shall have the right to submit evidence, to cross examine witnesses and to be represented by counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitious material shall be excluded. Upon the conclusion of the hearing, the Health Commissioner shall issue a final order determining the issue(s) which shall be conclusive on all parties subject to the right of appeal.

(F) Appeal

- (1) Any owner/permittee/installer aggrieved by an final order of the Health Commissioner shall be entitled to a review of the final order before the Board by filing a written request with the Secretary for the Board within fifteen (15) days of the Health Commissioner's final order.
- (2) Upon the Secretary's receipt of such request, the Board shall hear the matter de novo in open hearing upon at least ten (10) days written notice of the time, place and nature thereof. The notice shall be issued by the Secretary for the Board to owner/permittee/installer filing the request.
- (3) The notice shall be served upon the owner/permittee/installer by leaving or mailing (certified mail) the notice to the address listed on the application as his/her/its address or such other address he/she/it shall designate in writing.
- (4) At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Commissioner. Upon written demand by the owner/permittee/installer, the Board shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Commissioners of Allen County, Indiana in the form of a transcript, a copy of which shall be available to any party.
- (5) The expense of such proceedings shall be charged to the owner/permittee/installer who applied for the review, except that copies of the transcript shall be at the expense of the party obtaining same. The Commissioners of Allen County, Indiana may require the deposit of an amount determined to secure such expense.
- (6) The Board shall make written findings of facts and shall enter its final

order or determination of the matter in writing in the permanent records of the Board.

Sec. 51.059 Penalties.

(A) Enforcement

It shall be the duty of the Department and/or the Health Commissioner to enforce the provisions of this Ordinance. Any permit or registration issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an order issued by the Health Commissioner or Board shall be considered to be a violation of this Ordinance.

(B) Violations

Whenever the Health Commissioner determines that any owner, permittee, installer or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Commissioner shall furnish evidence of said willful violation to the Prosecuting Attorney of Allen County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s).

(C) Penalty

Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than \$500.00 for each violation. Each day of the existence of any violation of this Ordinance shall be considered to be a separate offense.

(D) Injunction

The Health Commissioner may bring an action for an injunction in the Circuit or Superior Court of Allen County, Indiana, to restrain any person from violating the provisions of this Ordinance, or to cause such violation to be prevented, abated or removed.

(E) Expense

Any person violating any of the provisions of this Ordinance shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

(F) Cumulative

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Sec. 51.066. Water Obtained from Sources Other Than City's Water Utility.

Where the property obtains any part or all of the water used from sources other than the City's Water Utility, the owner or the tenant shall be required by the City to install and maintain at the user's own expense a meter or meters acceptable to the City for the quantity of water obtained from these other sources. Once installed, no such meter may be bypassed for any reason.

Sec. 51.067. Exempt Water - General.

Where a significant portion of the metered water does not and cannot enter the sewerage system, either directly or indirectly, the person having charge of the property may request permission from the City to install at the user's expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system. In any case, the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of user served. Plans and specifications for all such meters shall be submitted to the Superintendent of the Water Pollution Control Plant and approved prior to installation.

Sec. 51.068.5. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- (a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- (b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- (c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

1. Has been conveyed or transferred to another person; or
2. No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- (e) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

Sec. 51.069. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.

Treatment	60.58
Conveyance, Collection, Billing	51.11
Capital	28.98

Total User Charge	<u>140.67</u>
-------------------	----------------------

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.61.

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	75.73
Conveyance, Collection, Billing	63.89
Capital	36.23
Total User Charge	<u>175.85</u>

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.61.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Outside-City</u>
Residential User-Single Family Dwelling	\$15.68	\$19.20
Residential User-Multi Family Dwelling	To be estimated by City	

1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.

2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and

adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

Sec. 51.070. Industrial User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	60.58	75.73
Conveyance, Collection, Billing	51.11	63.89
Capital	28.98	36.23
Total User Charge	<u>140.67</u>	<u>175.85</u>

B. Other Industrial User Charges

	<u>Inside City</u>	<u>Outside City</u>
1) Monthly billing charge - per bill	\$ 1.61	\$ 1.61
2) <u>Excess Strength of Wastes Surcharge</u> - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:		

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the even any user in this classification is not a metered water customer, there shall

be imposed a flat charge estimated by the City. A 25 % surcharge shall apply to the rate charged to such users located out the City.

Sec. 51.071. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	60.58	75.73
Conveyance, Collection, Billing	51.11	63.89
Capital	28.98	36.23
Total User Charge	<u>140.67</u>	<u>175.85</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

1. Monthly Billing Charge - per bill	<u>Inside City</u>	<u>Outside City</u>
--------------------------------------	--------------------	---------------------

	1.61	1.61
--	------	------

2. Excess Strength

- a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- b. Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the

purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b) shall be presumed to fall within this category.

Sec. 51.072. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	60.58	75.73
Conveyance, Collection, Billing	51.11	63.89
Capital	28.98	36.23
Total User Charge	<u>140.67</u>	<u>175.85</u>

B. User Flat Charges the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.61	1.61
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

Sec. 51.073. Governmental User Charges.

1 A. Service Charge

2 Charges for services rendered shall be based on metered water consumption, unless
3 otherwise measured, in accordance with the following charges for this classification
4 of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	60.58	75.73
Conveyance, Collection, Billing	51.11	63.89
Capital	28.98	36.23
Total User Charge	<u>140.67</u>	<u>175.85</u>

9 B. User Flat Charges

10 In the event any user in this classification is not a metered water customer, there shall
11 be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the
12 rate charged to users located outside the City.

13 C. Other Governmental User Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.61	1.61
2. Excess Strength		

18 In the event any user under this classification contributes waste having a
19 strength of sewage in excess of domestic waste characteristics as hereinbefore
20 defined, such user will be charged for surveillance and surcharges as set forth
21 elsewhere herein for Industrial Users.

22 **Sec. 51.074. Contract Customers - Unit and Other Charges.**

23 In the event the City consummates a contract to serve as a regional treatment plant
24 for any other municipality or private sewage utility, either contiguous to the City or
25 in its environs, said contract shall provide for the following unit charges:

26 a) Volume Charge (cents per 100 cu. ft.).

Treatment	60.58
-----------	-------

b) **Variable Charge (cents per 100 cu. ft.).**

A variable charge for conveyance and collection costs attributable to each contract customer's portion of the conveyance system and operating costs associated therewith shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) **Flat Charge.**

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.61 and an appropriate monthly surveillance charge, as set out in Sec. 51.078 herein, based on the type of testing necessary according to the contractee's customer base.

d) **Excess Strength of Waste Surcharge.**

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) **Capital Charge.**

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) **Capital Surcharge.**

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) **Other Provisions.**

In the event sewage received pursuant to any contract entered into under this

section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1), of Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

Sec. 51.075. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Water Hauler to City's plant - \$85.57 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$51.30 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Waste Hauler Manifest", the form for which will be provided by the City.

All bulk waste haulers shall also be assessed a billing charge of \$1.61 per bill.

Sec. 51.076. Liability for Surcharge.

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance,

based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.

e) Ammonia content of 25 milligrams per liter.

Sec. 51.077. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge, In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

Sec. 51.078. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges

Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58

Evaluation Charges - Per Occurrence

Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Grab Compliance (FOG)	76.00
Composite Compliance	190.00 *
• Plus applicable laboratory testing charges.	

Sec. 51.099. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewerage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property

1 when the delinquent party is the property owner and may be collected in accordance
2 with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

3 **Sec. 51.100. Collection Through Court Actions.**

4 In addition to the foregoing remedies, the City may recover the amount of the
5 charges for sewerage services, penalties of 10% of the delinquent fees and reasonable
6 attorney's fees in a civil action, and may foreclose liens established by this Chapter
7 in accordance with Indiana Code 36-9-23-34.

8 **Sec. 51.111. Enforcement.**

9 Those provisions of this Chapter not specifically dealt with elsewhere shall be
10 enforced by the Director of City Utilities and such deputies as Director, with the
11 approval of the Board of Public Works, may be appointed for such purposes.
12 Whenever said Director or any such deputy shall deem it appropriate to charge any
13 person with a violation(s) of this Chapter, he shall issue to such person a Notice of
14 Violation and/or Summons, which shall be processed according to the provisions of
15 Indiana Code (34-4-32-1) and the Sewer Utility Rules and Regulations, or pursuant
16 to an ordinance adopted in accordance with I.C. §36-1-6-9.

17 **Sec. 51.999. Penalty for Violations.**

18 Any person who violates or fails to comply with any provision of this Chapter or of
19 the Rules and Regulations of the Board of Public Works or Administrative Orders
20 pertaining thereto, shall be subject to a fine of up to \$2,500.00 per day as set out at
21 Section 10.99 of the City of Fort Wayne Code of Ordinances or as otherwise
22 provided by Indiana Law. Each day that such violation(s) or noncompliance
23 continues shall constitute a separate offense.

24 **SECTION 2.** The invalidity of any section, sentence, clause, paragraph, part
25 or provision of this Ordinance shall not affect the validity of any other section,
26 sentence, clause, paragraph, part or provision of this Ordinance which can be given
27 meaning without such invalid part or parts.

28 All Ordinances or parts of Ordinances and sections of the Municipal Code of
29 the City of Fort Wayne in conflict herewith are hereby repealed.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

John W. Crawford
COUNCIL MEMBER

APPROVED AS TO FORM AND LEGALITY

Timothy McCaulay
TIMOTHY McCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Crawford,
and duly adopted, read the second time by title and referred to the Committee on
Finance, (and the City Plan Commission for recommendation)
and Public Hearing to be held after due legal notice, at the Common Council Conference
Room 128, City-County Building, Fort Wayne, Indiana, on Tuesday,
the 13th day of May, 19 97, at 5:30
o'clock P.M., E.S.T.

DATED: 4-22-97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Crawford,
and duly adopted, placed on its passage. PASSED
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>8</u>			<u>1</u>
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS	<u>✓</u>			
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE				<u>✓</u>
SCHMIDT	<u>✓</u>			

DATED: 7-1-97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____

(ZONING) _____ ORDINANCE _____ RESOLUTION NO. 15-07-97
on the 1st day of July, 19 97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

ATTEST: _____ SEAL _____
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the
2nd day of July, 19 97
at the hour of 11:00 o'clock A, M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 9th day
of July, 19 97, at the hour of 11:45
o'clock A M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR



The City of Fort Wayne

City Utilities

MEMORANDUM

TO: Fort Wayne City Council Members

FROM: Linda Peterson Powell, Counsel to City Utilities *LP*

DATE: April 18, 1997

RE: **ORDINANCE AMENDING CHAPTER 51**

The proposed amendments to Chapter 51 of the Code of Ordinances can be categorized into four general areas:

1. Subchapter 51.050 - 51.059 proposed by the Allen County Board of Health addresses private sewage disposal.
2. Subsection 51.068.5 establishes customer deposits to ensure the payment of sewer fees pursuant to Indiana law. Previously, deposits were based only on estimated water usage.
3. Actions, other than increasing revenue to fund capital improvements, recommended by the Sewer Task Force. Section 51.015 (g) was amended to facilitate City Utilities' enforcement power to order the removal of downspout tie-ins to the sanitary system and in problem areas served by combined sewers.
4. Rate adjustments set out in Subsection 51.069 to 51.078.

Changes in the rate structure are intended not only to increase the Sewer Utility's operating revenues by approximately 43.61%, but also to more accurately distribute the cost to the Utility of serving its various customer classes.

- Monthly and minimum charges would be replaced with a flat monthly billing charge of \$1.65 plus volumetric charges based on a customer's actual water usage.

- Customers located outside the City limits would be billed a 25% surcharge on the conveyance/collection and capital components of their per unit rate based on the higher cost of serving these customers. There are four factors which increase the costs to City Utilities of serving customers outside the City limits:
 1. The density of customers outside the City limits is less than that of customers inside the City limits. The lower customer density increases various costs such as the cost of main per customer and the cost of meter reading.
 2. The customers outside the City limits are located farther away from the Utility's maintenance facilities which increases the cost of travel for maintenance, service calls and other miscellaneous repairs.
 3. The customers outside the City limits are located farther away from the Utility's treatment plant which results in a greater allocation of the cost of interceptor mains and lift stations.
 4. The cost of purchased power to operate the lift stations is greater outside the City limits than it is inside the City limits.

The proposed surcharge of approximately 25% corresponds to a similar surcharge applied to water rates paid by customers outside the City limits.

- Lastly, the calculation of contract user rates was reevaluated. Currently, the volume charge assessed to contract customers is based on both treatment and capital charge components. Additionally, each contract customer pays a variable charge for conveyance, collection and operating costs attributable to the usage of that contract customer. The proposed rate base for contract customers includes the cost of treatment at the inside City rate plus a conveyance and collection charge based on the contract customer's percentage of capacity miles as it relates to the total interceptor system. Thus, contract customers would be charged for the amount of capacity reserved for usage by each.

Fort Wayne City Council Members
April 18, 1997
Page -3-

The overall financial effect of the proposed rate changes is set out generally in the attached digest sheet.

The "Whereas" paragraphs preceding the body of the Ordinance also provide background information concerning the proposed amendments to Chapter 51 of the Code. For purposes of comparison, a draft of the attached Ordinance is also being prepared showing the amendments, deletions and additions proposed.

If you have specific questions, please feel free to contact me at 427-1344.

mlg
Attachment

DIGEST SHEET

TITLE OF ORDINANCE _____ **GENERAL ORDINANCE** _____

DEPARTMENT REQUESTING ORDINANCE _____ **Division of City Utilities** _____

SYNOPSIS OF ORDINANCE Additional annual revenue of approximately \$6.75 million from the proposed overall rate increase of 43.61% will be used to fund increases in annual Capital Improvements, in annual debt service requirements for a proposed bond issue of approximately \$27.4 million, and in operating expenses. The proposed bond issue of approximately \$27.4 million will be used to fund approximately \$23.5 million of capital projects (Northeast Interceptor, St. Mary's Relief, CSS Capacity - Basin #1 Lillian Avenue, CSS Capacity Corrections, and Aeration Tank Air Diffuser Replacement), to fund a debt service reserve in the amount of \$2.8 million, and pay for other issuance costs.

EFFECT OF PASSAGE Increased revenue and bond proceeds will provide for funding capital projects.

EFFECT OF NON-PASSAGE Insufficient funds to do capital projects.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) Approximately \$6.75 million of additional annual revenue. Approximately \$23.5 million of bond proceeds.

ASSIGNED TO COMMITTEE (PRESIDENT) _____

**AN ORDINANCE AMENDING CHAPTER 51 OF
THE CITY OF FORT WAYNE CODE OF LAWS.**

WHEREAS, the City of Fort Wayne has several areas within its borders which are not currently served by a public sewer and wishes to provide for both the orderly residential development and the proper disposal of sewage from residential properties; and

WHEREAS, the City of Fort Wayne wishes to provide for a basic threshold level of knowledge and registration for all installers of septic systems to insure the proper construction, installation and inspection of septic systems on real estate adequately suited for this type of disposal of sewage, based on current technology and state regulations; and

WHEREAS, City Utilities has not, in the past, requested deposits based on sewage consumption despite Indiana Code 36-9-23-28 specifically providing for such deposits in order to protect the financial stability of the sewer utility.

WHEREAS, pursuant to Indiana Code 36-9-23-25, the Common Council of the City of Fort Wayne has enacted a User Charge System and a Sewer Use Ordinance as contained in Chapter 51 of the Fort Wayne Code of Ordinances; and,

1 **WHEREAS**, State law (I.C. 8-1.5-38) states that rates and charges of
2 municipally-owned utilities are unlawful if too low to produce income sufficient to
3 maintain the utility property in a sound physical and financial condition to render
4 adequate and efficient service; and,

5 **WHEREAS**, a Sewer Task Force was created by the Mayor of the
6 City of Fort Wayne for the purpose of recommending a plan of improvement to the
7 City's municipal sewage works; and,

8 **WHEREAS**, the Sewer Task Force has on October 21, 1996,
9 presented a nine point plan of improvement including increased maintenance and
10 evaluation of the City's sewer system and a capital improvements plan requiring the
11 investment of \$9 million per year to address combined sewer capacity issues; and,

12 **WHEREAS**, the Mayor of the City of Fort Wayne has accepted and
13 endorsed the recommendations of the Sewer Task Force; and,

14 **WHEREAS**, the City of Fort Wayne engaged the services of
15 Municipal Consultants to review the current financial position of the Water Pollution
16 Control Utility in light of the above legal requirements and Task Force
17 recommendations; and,

18 **WHEREAS**, Municipal Consultants prepared and submitted to the
19 City of Fort Wayne the results of the above-mentioned review and has made
20 recommendations therein regarding adjustments to the current Water Pollution
21 Control Utility rates and charges, said report being dated March 21, 1997; and,

22 **WHEREAS**, upon review of said report and recommendations, the
23 Board of Public Works of the City of Fort Wayne, in accordance with I.C. 36-9-23-

1 25, as amended, and Section 51.079 of the Fort Wayne Code of Ordinances, found
2 on April 9, 1997 that existing rates and charges for the use of and services rendered
3 by the Water Pollution Control Utility do not provide sufficient revenue to:

- 4 (a) Pay all expenses incidental to the operation of the works,
5 including legal expenses, maintenance costs, operating
6 charges, repairs, lease rentals, and interest charges on bonds or
7 other obligations; and,
8 (b) Provide the sinking fund required by section 21, [I.C. 36-9-23-
9 21] of this chapter for proposed debt; and,
10 (c) Provide adequate money for improving and replacing the
11 works; specifically those projects recommended by the Sewer
12 Task Force and endorsed by the Mayor; and,

13 **WHEREAS**, on said date the Board of Public Works found it in the
14 best interest of the Fort Wayne Water Pollution Utility, in order to provide income
15 sufficient to maintain the utility property in a sound physical and financial condition
16 and to render adequate and efficient service to its users while implementing the
17 recommendations of the Sewer Task Force, that the sewage rates charged to all user
18 classes be amended according to the recommendations of Municipal Consultants,
19 Inc. dated March 21, 1997, and further recommended the Common Council of the
20 City of Fort Wayne otherwise amend Chapter 51 of the City of Fort Wayne Code of
21 Ordinances in order to more equitably charge all Sewer Utility users.

22 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
23 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

24 **SECTION 1.** That the following sections or subsections of Chapter
25 51 of the City of Fort Wayne Code of Laws be amended, added or deleted as follows:
26

27 **Sec. 51.001 Definitions.**
28
29

- 1 c) **"BIOCHEMICAL OXYGEN DEMAND (BOD)"** - the quantity of
2 dissolved oxygen, in milligrams per liter, required during the stabilization of
3 the decomposable organic matter by aerobic biochemical action of sewage,
4 sewage effluent, polluted waters or industrial wastes under standard
5 laboratory procedures for five days at 20° centigrade. The laboratory
6 determinations shall be made in accordance with procedures set forth in 40
7 CFR 136.
- 8 j) **"CHEMICAL OXYGEN DEMAND (COD)"** - a measure of oxygen
9 equivalent to that portion of the organic matter in a sample of sewage, sewage
10 effluent, polluted waters or industrial wastes that is susceptible to oxidation
11 by a strong chemical oxidant. The laboratory determinations shall be made in
12 accordance with procedures set forth in
13 40 CFR 136.
- 14 m) **"COMPLIANCE SAMPLE"** - a sample taken of a User's effluent
15 approximately thirty (30) days after a violation of this Chapter, the User's
16 permit or the Federal Pretreatment Standards and Regulations has been
17 discovered or reported. The User shall be billed for any Compliance Sample
18 taken.
- 19 n) **"COMPOSITE SAMPLE"** - the sample resulting from the combination of
20 discrete wastewater samples taken at selected intervals while the discharge
21 rate is at or above normal based on an increment of either flow or time. Time
22 intervals between discrete samples not to exceed 2 hours. The total duration
23 of collection shall not exceed 24 hours.
- 24 aa) **"OPERATION AND MAINTENANCE COSTS"** - all costs direct and
25 indirect, other than debt services including replacement costs as defined in
26 Section 51.001 (ii), necessary to insure adequate wastewater treatment on a
27 continuing basis conforming with federal, state or local requirements and to
28 insure long-term facilities management.
- 29 ff) **"RANDOM SAMPLE"** - A sample taken at no charge to the User, at the
 City's discretion of effluent produced by any User.
- yy) **"SUSPENDED SOLIDS"** - solids which either float on the surface of or are
 in suspension in water, sewage or other liquid and which are removable by
 laboratory filtration. Their concentration is expressed in milligrams per liter.
 Quantitative determinations are made in accordance with procedures set forth
 40 CFR 136.
- ccc) **"WASTE SURVEILLANCE CHARGE"** - a monthly charge collected
 from users, qualifying as industrial or commercial class users, to defray the

cost of evaluating that user's waste by metering, sampling, laboratory analysis and/or other methods deemed necessary. Said charges are set forth in Article VII and are subject to review annually as provided in Section 51.079.

Sec. 51.015. Requirements for Connection to Public Sewers.

- g) City Utilities shall have the authority to require an owner of real property to disconnect any downspouts, yard drains or other drains which carry the runoff of natural precipitation from a building sewer which drains into a sanitary sewer, or in areas served by combined sewers where City Utilities determines the additional load placed on the system has been found to be detrimental to properties in that area. Property owners shall have thirty (30) days after notice thereof to comply with any such requirement.

Sec. 51.017 Connections to Sewerage System by Certain Properties Outside Corporate Limits.

Notwithstanding the provisions of Sec. 51.016, the Board of Public Works shall have the authority to permit a property located outside the corporate limits of the City to connect to an existing sanitary sewer which is part of the City's sewerage system, when the property abuts, adjoins or is immediately contiguous to the street, alley or easement in which such sewer is located and provided the property owner or occupant has complied with the requirements prescribed by Sec, 51.015 of this Chapter.

Sec. 51.033. Prohibited Discharges and Limitations.

Except as hereinbefore provided, no person shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes or waters:

- a) Any liquid or vapor having a temperature greater than 140° F. (60°c), or any wastewater which will cause the WPC Plant's influent to exceed 104° F. (40°c).
- b) Any waters or wastes from industrial sources containing more than 100 milligrams per liter of total oil and grease (TOG). Acceptable limits for animal-vegetable based fats, oils and grease shall be determined by the Board of Public Works and set out in the Sewer Utility Rules and Regulations. Said maximum limits shall be calculated and set at an amount shown not to cause interference or obstruction in the collection system and/or sewerage works,

and shall be re-evaluated and adjusted as necessary to protect the integrity of the sewer utility.

- d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers for their maintenance or repair.
- e) Any garbage that has not been properly pretreated and reduced per Sec. 51.001(u).

Sec. 51.035. Submission of Data on Industrial Waste.

- c) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall first notify the Water Pollution Control Plant, in writing, and submit a new or revised Baseline Monitoring Report for review by the Superintendent

Sec. 51.040. Waste Analysis Procedures and Charges.

Laboratory procedures used in the examination of industrial wastes shall be those set forth in Code or Federal Regulations 40 CFR 136 or approved EPA methods.

- d) **CHARGES COLLECTED** - All waste analysis charges collected under Section 51.040-a) and b) above shall be recorded as credits to the operating costs of the Water Pollution Control Plant and a quarterly accounting thereof shall be forwarded to the Superintendent. All such charges are to be used to defray the operation and maintenance expenses incurred by the Water Pollution Control Plant in performing said analyses.

PRIVATE SEWAGE DISPOSAL

This subchapter (51.050-51.059) applies to matters under the jurisdiction of the State and Allen County Board of Health.

Sec. 51.050 Definitions.

- (A) The words and phrases used in this subchapter (51.050-51.055) are herein defined, and for the purpose of this subchapter only, shall be construed as follows, except when otherwise expressly provided.

1 (1) State Definitions

2 All definitions set forth in 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin
3 SE-13 (1988), as amended from time to time, from the Indiana State
4 Department of Health are hereby incorporated by reference.

5 (2) Board

6 "Board" shall mean the Fort Wayne-Allen County Board of Public Health,
7 Fort Wayne, Allen County, Indiana.

8 (3) Building

9 "Building" shall mean a structure having a roof supported by columns or
10 walls built or used for the enclosure, shelter, protection or occupancy or
11 persons, fixtures or personal property, and from which there emanates any
12 sewage.

13 (4) Commercial

14 "Commercial" shall mean any building which is not a one or two family
15 dwelling.

16 (5) Department

17 "Department" shall mean the Fort Wayne-Allen County Department of Public
18 Health, Fort Wayne, Allen County, Indiana, and/or its employees.

19 (6) Environmental Health Specialist

20 "Environmental Health Specialist" means an individual as defined in I.C. 25-
21 32-1-1(B).

22 (7) Health Commissioner

23 "Health Commissioner" shall mean the Director of Public Health for the Fort
24 Wayne-Allen County Department of Public Health for Fort Wayne, Allen
25 County, Indiana, (designated as "Health Officer" in the state rules and
26 regulations) and/or his/her authorized representative.

27 (8) Installer

28 "Installer" shall mean any person who constructs, installs, replaces, alters,
29 modifies or repairs any residential or commercial sewage disposal system

1 subject to the provisions of this ordinance, other than one which serves
2 his/her/its building. In the event that the person is any association of two or
3 more people, then said association shall designate one individual who shall be
4 designated as the installer and responsible for compliance with all provisions
5 hereunder.

6
7 (9) Permit

8 "Permit" shall mean a certificate of a size and style approved by the Health
9 Commissioner.

10
11 (10) Permittee

12 "Permittee" shall mean the person who is the owner of the real estate,
13 his/her/its authorized representative, who is responsible for the application of
14 a construction permit and/or operating permit and who shall be responsible
15 for the acceptance of notices at the address listed on the permit applications.

16
17 (11) Public Sewer

18 "Public Sewer" shall mean a sewer to the use of which all owners of abutting
19 property have equal rights and is controlled and maintained by the City or
20 other public authority.

21
22 (12) Residential

23 "Residential" shall mean a building used as a one or two-family dwelling.

24
25 (13) Sewage

26 "Sewage" shall mean the water-carried wastes from residences, business
27 buildings, institutions and industrial establishments, singularly or in any
28 combination, together with such ground, surface and storm waters as may be
29 present.

30
31 (14) Soils Scientist

32 "Soils Scientist" means an individual who is a Specialist or Classifier,
33 registered with the

34 American Registry or Certified Professionals in Agronomy, Crops and Soils
35 (ARCPACS).

Sec. 51.051 Sewage Disposal.

(A) State Rules

All rules and regulations of 410 IAC 6-8.1, 410 IAC 6-10, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) Public Sewer Available

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial lot line, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

(C) Public Sewer Not Available

All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

(D) Construction of Privy

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner.

(E) Correction of Defects

Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the sanctions set forth in 51.059 subject, however, to the hearing provisions of 51.058.

(F) Adaptation of Residential Systems

Whenever there is any alteration of the structure or change in the use or

1 occupancy of a residential building that would affect the functioning of the
2 existing private sewage disposal system, including the addition of bathrooms,
3 kitchens or other related water disposal mechanisms, then the system shall be
4 modified, enlarged or replaced in accordance with the requirements of this
5 chapter.

6 (G) Adaptation of Commercial System

7 Whenever there is any alteration of the structure or significant change in the
8 use or occupancy of a commercial building which would affect the
9 functioning of the existing private sewage disposal system, including the
10 addition of bathrooms, kitchens or other related water disposal mechanisms,
11 then the system shall be modified, enlarged or replaced in accordance with
12 the requirements of this chapter.

13 **Sec. 51.052 Construction Requirements Of Private Sewage Disposal Systems.**

14 (A) Indiana State Department of Health Requirements

15 All rules and regulations of 410 IAC 6-8.1, Bulletin SE-11 (1986) and
16 Bulletin SE-13 (1988), as amended from time to time, from the Indiana State
17 Department of Health are hereby incorporated by reference.

18 (B) "Lot Dimensions"

19 (1) Lots or tracts of real estate on which residential or commercial sewage
20 disposal systems are to be installed and which are rated slight or
21 moderate for septic tank absorption fields by the U.S. Department of
22 Agriculture Soil Conservation Service, shall contain a minimum of
23 one (1.0) acre or 43,560 square feet and suitable soils and topography
24 to permit compliance with this chapter.

25 (2) Lots or tracts of real estate on which residential or commercial sewage
26 disposal systems are to be installed and which are rated severe for
27 septic tank absorption fields by the U.S. Department of Agriculture
28 Soil Conservation Service shall contain a minimum of two (2.0) acres
29 or 87,120 square feet and suitable topography to permit compliance
with this chapter.

(3) A permittee, whose real estate was a separate parcel for tax purposes
as shown on the tax records of the Auditor of Allen County, Indiana,
and recorded prior to the effective date of this ordinance as set forth in
51.059 (I) shall not be prohibited from the construction, installation
and eventual operation of a residential sewage disposal system solely

as the result of his/hers/its lot dimensions being less than those set forth above in (1) and (2), provided that he/she/it meets all other requirements of this ordinance.

(C) "On-Site Evaluation"

At least one boring from the submitted septic disposal system location shall be done with a soil auger. A second sample from the submitted septic disposal system location, and any additional confirmation samples, may be taken with a push probe.

(D) Requirements for Septic Tanks

(1) Residential septic tanks shall have the following number of gallons:

- | | |
|--|--|
| a. If the number of bedrooms in a dwelling are one, two, three or four | 1,250 gallon tank |
| b. If the number of bedrooms in a dwelling are five | 1,500 gallon tank |
| c. If the number of bedrooms in a dwelling are more than five | 1,500 gallon tank +
150 gallons x the number
of bedrooms over five |

(E) Final Grade

All distribution boxes shall be extended full size to ground level or final grade.

(F) Access Openings

All septic tanks shall have at least one (1) access opening of at least ten (10) inches in diameter, for each compartment in said tank for inspection and cleaning purposes. All such access opening shall be extended to ground level and shall be fitted with safely secured, gas tight covers.

(G) Abandoned Septic Tanks

Abandoned septic tanks shall be filled with earth, sand or gravel or shall be removed.

(H) Inspection Pipe

Each private sewage disposal system shall have at least one suitable inspection pipe, which shall be accessible to the Health Commissioner at all reasonable times for the inspection or sampling of effluent. If an inspection

pipe does not exist, is not in good repair or is not accessible, such fact shall constitute a defect in the system under 51.051(E).

(1) The inspection pipe shall be installed at the far end of one of the absorption lines, or just beyond the last equipment or device in any other treatment system.

(2) The inspection pipe shall be not less than an eight (8) inch riser of Schedule 40, SDR 22 or SDR 26 PVC pipe or vitrified clay pipe extending above the surface of the ground, with a safely secured easily removable cap or cover and with its lower end connected and arranged to permit the collection, by dipping, of an effluent sample.

Sec. 51.053 Construction Permit.

(A) Construction Permit Required

An owner or permittee shall first obtain a construction permit from the Health Commissioner prior to the commencement of any excavation, construction, alteration, repair, modification or addition to any existing or new private sewage disposal system.

(B) Permit to be Posted

No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

(C) Application for Permit

The application for such permit shall be submitted to the Health Commissioner on a form provided by the Health Commissioner and shall be supplemented by any plans, specification and other information deemed necessary by the Health Commissioner or as required by 410 IAC 6-8.1-48.

(D) Permit Fees

Prior to the issuance of any permit, each owner/permittee shall first tender to the Treasurer of Allen County, Indiana, a fee or fees, which shall be deposited into the City-County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule:

- (1) New construction - \$75.00
- (2) Alteration, modification or repair of existing system - \$50.00
- (3) Revision of existing permit prior to construction - \$20.00

(E) Term and Renewal

A construction permit shall be valid for one (1) year from the date of issuance, and may be renewed for up to an additional six (6) months upon application. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

Sec. 51.054 Installers Registration.

(A) Registration Requirements

Except for a person working on his/her/its own private sewage disposal system which serves the dwelling in which he/she/it resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Department as an installer. Persons required to be registered shall be given a grace period of up to six (6) months after the effective date of this Ordinance in which to register with the Department. Application for registration shall be on forms provided by the Department.

(B) Conditions for Registration

- (1) Every person required to register under this section shall be knowledgeable of all laws, rules and regulations of both the state and county governing private sewage disposal systems. Prior to registration, the applicant must demonstrate knowledge of the applicable laws, rules and regulation by passing a proficiency exam conducted by the Department with a score of eight percent (80%) or higher. The registration exam shall be reviewed from time to time to

determine its applicability to current laws, rules and regulations. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for reexamination shall be afforded to an applicant upon request but no more frequently than once per month.

(C) Seminar

At the request of the Health Commissioner, but not more than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Department of the Indiana State Department of Health.

(D) Expiration

Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15 of each succeeding year.

(E) Annual Fee

For a period of six (6) months after the effective date of this Ordinance, registration under this section shall be without fee. After that date, an annual registration fee of \$40.00 will be charged which shall be paid not later than January 31 of each year.

(F) Notice of Violation

Whenever the Health Commissioner determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Commissioner shall give written notice, in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

- (1) A statement of the alleged violation.
- (2) An order allowing a reasonable time for the performance of any act required to correct the violation.

(G) Suspension or Revocation

If the violation is not corrected within the designated time, the Health

Commissioner may suspend or revoke the installer's registration subject to the provisions contained in 51.058 (B), (C) or (D).

(1) If the registration is suspended, the installer may be reinstated by the Health Commissioner upon correction of all violations.

(2) If the registration is revoked, the Health Commissioner shall require, at a minimum, that the installer: 1) be retested; 2) pay the registration fee; and, 3) correct all outstanding violation to the satisfaction of the Health Commissioner prior to being re-registered.

(H) Not Registered

Any person constructing, installing, replacing, altering or repairing any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Ordinance and shall be subject to all penalties set forth in §51.059.

Sec. 51.055 Inspection.

(A) Commencement of Construction

Upon issuance of a construction permit under § 51.053(A), the permittee may commence installation and construction of the private sewage disposal system. The Health Commissioner may inspect the work at any state of construction.

(B) Inspection

Upon substantial completion of the installation, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

(1) No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance and an operation permit has been issued.

(2) The inspection shall be made within two (2) working days of the receipt of notice by the Health Commissioner that the system is ready for inspection.

1 (C) Issuance of Operation Permit

2 If the system meets all requirements and is in compliance with the law, the
3 Health Commissioner shall issue an Operating Permit.

4 (D) Operating Permit Required

5 It shall be unlawful for any person to use or operate a private sewage disposal
6 system unless said person possesses a valid operating permit issued by the
7 Health Commissioner.

8 (E) Valid Period

9 The Operating Permit shall be valid until there is a change in the use
10 associated with the system. The issuance date shall appear on the Permit.
11 The operation permit is not transferable.

12 (F) Application for Permit

13 The application for an operation permit shall be made to the Health
14 Commissioner on forms provided by the Health Commissioner.

15 (G) Time of Issuance

16 An operating permit shall be issued within five (5) days of the inspection of
17 the system once the Health Commissioner has determined that the permittee
18 has complied with all applicable provisions of this ordinance, the related state
19 rules and regulations and tendered the appropriate permit fee.

20 (H) Renewal

21 Renewal of the Operating Permit is the duty of the permittee.

22 **Sec. 51.056 Maintenance And Sampling.**

23 (A) Sanitary Condition Mandatory

24 Every private sewage disposal system shall be constructed and maintained so
25 that the effluent leaving the Permittee's system shall be sanitary.

26 (B) Inspection and Sampling

27 The Health Commissioner shall be permitted to enter upon any property at
28
29
30

any reasonable time to inspect and take samples from a private sewage disposal system. If said test results should indicate a residential or commercial sewage disposal system failure, said failure shall constitute a violation of §51.051(E).

Sec. 51.057 Economic Hardship.

(A) Economic Hardship

In the event an owner/permittee is unable to comply with the provisions of 51.051(B) due to the economic hardship that might be imposed, then the Health Commissioner may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing private sewage disposal system which is operating properly.

Sec. 51.058 Denial, Suspension, Revocation.

(A) Denial and Approval of Permit

(1) In the event the Health Commissioner determines that the application for the Construction Permit and/or Operating Permit does not meet the standards set forth in this chapter, then the Health Commissioner shall be required to notify the Permittee of such denial in writing, within thirty (3) days of the original application, stating the specific reasons for the denial of the permit.

(2) Failure of the Health Commissioner to issue a written denial of a permit an/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within thirty (30) days from the date of application of the Construction Permit shall be construed as an approval of the Construction Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Construction Permit.

(3) Failure of the Health Commissioner to issue a written denial of an Operating Permit and/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within ten (10) days from the date of application of the Operating Permit shall be construed as an approval of the Operating Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the Permittee and/or his agent shall have a reasonable

amount of time to address the items set forth in the directives in order to be able to obtain the Operating Permit.

(B) Suspension of Permit/Registration

The Health Commissioner may order the suspension of a Construction Permit or Operation Permit or installer registration. The Health Commissioner may order the suspension of a permit or registration for any of the following reasons:

- (1) Failure to meet any of the standards of any of the provisions of this Ordinance or violations of any of provisions of this Ordinance.
- (2) Interference with the Health Commissioner in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Commissioner in the performance of his/her duties.
- (3) At the request of the permittee or installer, a hearing shall be afforded him/her/it within twenty-four (24) hours of the issuance of the written suspension order. Said hearing shall be conducted as set forth in 51.058(E).

(C) Revocation or Permit/Registration

Any permit and/or registration issued hereunder may be revoked by the Health Commissioner as the result of the willful or continued violation of any provision of this Ordinance. No such revocation shall be ordered by the Health Commissioner except after a hearing held pursuant to 51.058(E) upon at least ten (10) days written notice to the owner/permittee/installer of the time, place and nature of said hearing. Said notice of hearing shall be served upon the owner/permittee/installer by leaving, or mailing (certified mail) the notice to the address listed by the owner/permittee/installer at his/her/its address on the permit, application or installer registration application.

(D) Immediate Revocation

Notwithstanding any of the other provisions of this Ordinance, whenever the Health Commissioner finds insanitary or other conditions, which, in his/her opinion constitute an imminent health hazard, he/she may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order shall site the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately. Upon petition to the Health Commissioner, the permittee/installer shall be

1 afforded a hearing within twenty-four (24) hours of the issuance of the
2 written order. Said hearing shall be conducted as set forth in 51.058(E).

3 (E) Hearing

4 At any hearing required under this Ordinance, every owner/permittee/installer
5 who is a party to such proceeding shall have the right to submit evidence, to
6 cross examine witnesses and to be represented by counsel. All such hearings
7 shall be conducted in an informal manner, but irrelevant, immaterial or
8 unduly repetitious material shall be excluded. Upon the conclusion of the
9 hearing, the Health Commissioner shall issue a final order determining the
10 issue(s) which shall be conclusive on all parties subject to the right of appeal.

11 (F) Appeal

12 (1) Any owner/permittee/installer aggrieved by an final order of the
13 Health Commissioner shall be entitled to a review of the final order
14 before the Board by filing a written request with the Secretary for the
15 Board within fifteen (15) days of the Health Commissioner's final
16 order.

17 (2) Upon the Secretary's receipt of such request, the Board shall hear the
18 matter de novo in open hearing upon at least ten (10) days written
19 notice of the time, place and nature thereof. The notice shall be issued
20 by the Secretary for the Board to owner/permittee/installer filing the
21 request.

22 (3) The notice shall be served upon the owner/permittee/installer by
23 leaving or mailing (certified mail) the notice to the address listed on
24 the application as his/her/its address or such other address he/she/it
25 shall designate in writing.

26 (4) At such hearing, the same rules of procedure shall apply as in the case
27 of the hearing before the Health Commissioner. Upon written
28 demand by the owner/permittee/installer, the Board shall cause the
29 proceedings before it to be recorded by a stenographer or reporter
30 employed for such purpose, and the same, together with all papers and
documents filed therein, shall be reproduced by said Commissioners
of Allen County, Indiana in the form of a transcript, a copy of which
shall be available to any party.

31 (5) The expense of such proceedings shall be charged to the
owner/permittee/installer who applied for the review, except that
copies of the transcript shall be at the expense of the party obtaining

1 same. The Commissioners of Allen County, Indiana may require the
2 deposit of an amount determined to secure such expense.

- 3 (6) The Board shall make written findings of facts and shall enter its final
4 order or determination of the matter in writing in the permanent
5 records of the Board.

6 **Sec. 51.059 Penalties.**

7 (A) Enforcement

8 It shall be the duty of the Department and/or the Health Commissioner to
9 enforce the provisions of this Ordinance. Any permit or registration issued in
10 conflict with the provisions of this Ordinance shall be null and void. A
11 violation of an order issued by the Health Commissioner or Board shall be
12 considered to be a violation of this Ordinance.

13 (B) Violations

14 Whenever the Health Commissioner determines that any owner, permittee,
15 installer or any other person, is in willful violation of any of the provisions of
16 this Ordinance, the Health Commissioner shall furnish evidence of said
17 willful violation to the Prosecuting Attorney of Allen County, Indiana or the
18 attorney for the Board who shall seek all appropriate legal remedies against
19 the person(s).

20 (C) Penalty

21 Any person who willfully violates any of the provisions of this Ordinance
22 shall be subject to a fine of not more than \$500.00 for each violation. Each
23 day of the existence of any violation of this Ordinance shall be considered to
24 be a separate offense.

25 (D) Injunction

26 The Health Commissioner may bring an action for an injunction in the Circuit
27 or Superior Court of Allen County, Indiana, to restrain any person from
28 violating the provisions of this Ordinance, or to cause such violation to be
29 prevented, abated or removed.

30 (E) Expense

Any person violating any of the provisions of this Ordinance shall be liable to

the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

(F) Cumulative

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Sec. 51.066. Water Obtained from Sources Other Than City's Water Utility.

Where the property obtains any part or all of the water used from sources other than the City's Water Utility, the owner or the tenant shall be required by the City to install and maintain at the user's own expense a meter or meters acceptable to the City for the quantity of water obtained from these other sources. Once installed, no such meter may be bypassed for any reason.

Sec. 51.067. Exempt Water - General.

Where a significant portion of the metered water does not and cannot enter the sewerage system, either directly or indirectly, the person having charge of the property may request permission from the City to install at the user's expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system. In any case, the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of user served. Plans and specifications for all such meters shall be submitted to the Superintendent of the Water Pollution Control Plant and approved prior to installation.

Sec. 51.068.5. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- (a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- (b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- (c) The deposit, less any outstanding penalties and service fees, shall be refunded

to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

1. Has been conveyed or transferred to another person; or
2. No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- (e) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

Sec. 51.069. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.

Treatment

Conveyance, Collection, Billing

Capital

Total User Charge

~~7.44~~ 67.44

52.54

29.59

149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65.

*Corrected
per
Memo*

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	<u>186.97</u>

*Corrected
per
memo*

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Outside- City</u>
Residential User-Single Family Dwelling	\$16.61	\$20.76 ^{20.35}
Residential User-Multi Family Dwelling	To be estimated by City	

1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.

2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and

adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

~~D. Inbaleo Capital Surcharge - per month \$4.65~~

Sec. 51.070. Industrial User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. Other Industrial User Charges

	<u>Inside City</u>	<u>Outside City</u>
1) Monthly billing charge - per bill	\$ 1.65	\$ 1.65
2) <u>Excess Strength of Wastes Surcharge</u> - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:		

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the even any user in this classification is not a metered water customer, there shall

be imposed a flat charge estimated by the City. A 25 % surcharge shall apply to the rate charged to such users located outside the City.

Total
should be
\$ 149.57

Sec. 51.071. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57 <u>102.77</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

~~1. Inbalco Capital Surcharge - per month \$ 4.65~~ *Delete*

2. Monthly Billing Charge - per bill	<u>Inside City</u>	<u>Outside City</u>
	1.65	1.65

3. Excess Strength

a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.

b. Restaurants - Commercial users primarily engaged in the business of

*Delete
per
Memo*

preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b) shall be presumed to fall within this category.

Sec. 51.072. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

~~3. Inbalco Capital Surcharge - per month \$ 4.65~~ *delete*

*delete
per
Memo*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Sec. 51.073. Governmental User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

~~3. Inbalco Capital Surcharge - per month \$4.65 *delete*~~

Sec. 51.074. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

*delete
per
Memo*

a) Volume Charge (cents per 100 cu. ft.).

Treatment	67.44
-----------	-------

b) Variable Charge (cents per 100 cu. ft.).

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) **Flat Charge.**

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) Excess Strength of Waste Surcharge.

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined,

a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

Cents Per Pound

Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) **Capital Charge.**

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) Capital Surcharge.

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) **Other Provisions.**

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract applicable to its users customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1). Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

Sec. 51.075. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Water Hauler to City's plant - \$93.81 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Waste Hauler Manifest", the form for which will be provided by the City.

All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

Sec. 51.076. Liability for Surcharge.

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.

d) Phosphorus content of 10 milligrams per liter.

e) Ammonia content of 25 milligrams per liter.

Sec. 51.077. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

Sec. 51.078. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges

Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58

Evaluation Charges - Per Occurrence

Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Grab Compliance (FOG)	76.00
Composite Compliance	190.00 *

* Plus applicable laboratory testing charges.

Sec. 51.099. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewerage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property

when the delinquent party is the property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

Sec. 51.100. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewerage services, penalties of 10% of the delinquent fees and reasonable attorney's fees in a civil action, and may foreclose liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

Sec. 51.111. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Director of City Utilities and such deputies as Director, with the approval of the Board of Public Works, may be appointed for such purposes. Whenever said Director or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and the Sewer Utility Rules and Regulations, or pursuant to an ordinance adopted in accordance with I.C. §36-1-6-9.

Sec. 51.999. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be subject to a fine of up to \$2,500.00 per day as set out at Section 10.99 of the City of Fort Wayne Code of Ordinances or as otherwise provided by Indiana Law. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

SECTION 2. The invalidity of any section, sentence, clause, paragraph, part or provision of this Ordinance shall not affect the validity of any other section, sentence, clause, paragraph, part or provision of this Ordinance which can be given meaning without such invalid part or parts.

All Ordinances or parts of Ordinances and sections of the Municipal Code of the City of Fort Wayne in conflict herewith are hereby repealed.

BILL NO. G-94-08-97- 04-10

GENERAL ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 51 OF THE
CITY OF FORT WAYNE CODE OF LAWS.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That *the following sections or subsections of* Chapter 51 of
the City of Fort Wayne Code of Laws be amended, *added or deleted* as follows:

CHAPTER 51

SEWERS AND SEWERAGE SYSTEM

General Provisions

Sec. 51.001. Definitions.

- c) "BIOCHEMICAL OXYGEN DEMAND (BOD)" - the quantity of dissolved oxygen, in milligrams per liter, required during the stabilization of the decomposable organic matter by aerobic biochemical action of sewage, sewage effluent, polluted waters or industrial wastes under standard laboratory procedures for five days at 20° centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" ~~(see paragraph 24-1. (rr) below)~~ 40 CFR 136.
- j) "CHEMICAL OXYGEN DEMAND (COD)" - a measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods." ~~(see paragraph 24-1. (rr) below)~~ 40 CFR 136.
- m) "COMPLIANCE SAMPLE" - a sample taken of a User's effluent *approximately* ~~within~~ thirty (30) days after a violation of this Chapter, the User's permit or the Federal Pretreatment Standards and Regulations has been discovered or reported. The User shall be billed for any Compliance Sample taken.

- n) **"COMPOSITE SAMPLE"** - the sample resulting from the combination of ~~discrete individual~~ wastewater samples taken at selected intervals *while the discharge rate is at or above normal* based on an increment of either flow or time. Time intervals between discrete samples not to exceed 2 hours. *The total duration of collection shall not exceed 24 hours.*
- aa) **"OPERATION AND MAINTENANCE COSTS"** - all costs direct and indirect, other than debt services including replacement costs as defined in *Section 51.001 (ii) paragraph 24.1.(ff)*, necessary to insure adequate wastewater treatment on a continuing basis conforming with federal, state or local requirements and to insure long-term facilities management.
- ff) **"RANDOM SAMPLE"** - A sample taken at no charge to the User, at the City's discretion of effluent produced by *any Users. not receiving scheduled sampling.*
- yy) **"SUSPENDED SOLIDS"** - solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration is expressed in milligrams per liter. Quantitative determinations are made in accordance with procedures set forth in *40 CFR 136 "Standard Methods."*
- ccc) **"WASTE SURVEILLANCE CHARGE"** - a monthly charge collected from users, qualifying as industrial or commercial class users, to defray the cost of evaluating that user's waste by metering, sampling, laboratory analysis and/or other methods deemed necessary. Said charges are set forth in Article VII and are subject to review annually as provided in *Section 24-41 51.079.*

Sec. 51.015. Requirements for Connection to Public Sewers.

- g) ~~The Board of Public Works~~ *City Utilities* shall have the authority to require an owner of real property to disconnect any downspouts, yard drains or other drains which carry the runoff of natural precipitation from a building sewer which drains into a sanitary sewer, *or in areas served by combined sewers where City Utilities finds the additional load placed on the system has been found to be detrimental to properties in that area.* Property owners shall have thirty (30) days after notice thereof to comply with any such requirement.
- m l) The Board of Public Works shall have the authority to require that for any new building any storm sewer connection to any combined sewer shall be made separate and apart from the sanitary sewer connection in order to facilitate future disconnection from the combined sewer in the event a separate storm sewer subsequently becomes available.

Sec. 51.017 Connections to Sewerage System by Certain Properties Outside Corporate Limits.

Notwithstanding the provisions of Sec. 24-4 51.016, the Board of Public Works shall have the authority to permit a property located outside the corporate limits of the City to connect to an existing sanitary sewer which is part of the City's sewerage system, when the property abuts, adjoins or is immediately contiguous to the street, alley or easement in which such sewer is located and provided the property owner or occupant has complied with the requirements prescribed by Sec. 24-3 51.015 of this Chapter.

Sec. 51.033. Prohibited Discharges and Limitations.

Except as hereinbefore provided, no person shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes or waters:

- a) Any liquid or vapor having a temperature greater than 140° F. (40 60⁰c), or any wastewater which will cause the WPC Plant's influent to exceed 104° F. (40⁰c).
- b) *Any waters or wastes from industrial sources containing more than 100 milligrams per liter of total oil and grease (TOG). ~~petroleum or mineral-based grease, oils, fats or waxes.~~* Acceptable limits for animal-vegetable based fats, oils and grease shall be determined by the Board of Public Works and set out in the Sewer Utility Rules and Regulations. Said maximum limits shall be calculated and set at an amount shown not to cause interference or obstruction in the collection system and/or sewerage works, and shall be re-evaluated and adjusted as necessary to protect the integrity of the sewer utility.
- d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers ~~of~~ for their maintenance or repair.
- e) Any garbage that has not been properly pretreated and reduced per Sec. 24-1(p)51.001 (u).

Sec. 51.035. Submission of Data on Industrial Waste.

- a)b) Any person who discharges industrial waste into the City's sewerage system either directly or indirectly, shall forthwith fill out and file, with the Superintendent, an Industrial Waste Questionnaire, baseline monitoring report or permit application, the form for which will be furnished by the City, in which shall be set forth the quantity and characteristics of the wastes discharged into the City's sewerage system. Any owner desiring to establish a new connection to the public sewer or to establish a new account with Sewage Works for the purpose of discharging industrial or commercial waste shall ninety (90) days prior to discharge first fill out and file with

the Superintendent such a questionnaire, baseline monitoring report or permit application, which shall contain the actual or predicted data relating to the quantity and characteristics of the wastes to be discharged. After review of the submitted documents and permit application, the Superintendent shall issue an industrial wastewater discharge permit which shall contain conditions and requirements with which the person shall comply. All Rules and Regulations of the Sewer Utility must also be followed by a permitted user.

- b)c) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall first notify the ~~Sewage Works~~ *Water Pollution Control Plant* in writing, and submit a new or revised ~~Industrial Waste Questionnaire~~ *Baseline Monitoring Report* for review by the Superintendent.
- e)d) Industrial Users must provide prior notification to the Superintendent of the WPC Plant before any changes are made to their effluent.
- d)e) Any person who knowingly makes any false statement, representation or certification in any application, report or other document required by the municipal ordinance or other applicable regulations shall, upon conviction be punished by the imposition of a criminal penalty as required by local and/or State statutes.
- e)f) When special circumstances render it an unreasonable burden to comply with the time schedule determined by the Sewage Works for the correction of any industrial waste discharge problem, an extension of time, not to exceed 90 days, may be granted by the Superintendent upon presentation in writing of an application for such relief.

Sec. 51.040. Waste Analysis Procedures and Charges.

Laboratory procedures used in the examination of industrial wastes shall be those set forth in "~~Standard Methods~~", Code of Federal Regulations 40 CFR 136 on approved EPA methods.

- d) **CHARGES COLLECTED** - All waste analysis charges collected under Section ~~51.040 24-23~~-a) and b) above shall be recorded as credits to the operating costs of the Water Pollution Control Plant and a quarterly accounting thereof shall be forwarded to the Superintendent. All such charges are to be used to defray the operation and maintenance expenses incurred by the Water Pollution Control Plant in performing said analyses.

PRIVATE SEWAGE DISPOSAL

This subchapter (51.050-51.059) applies to matters under the jurisdiction of the State and Allen County Board of Health.

Sec. 51.050 Definitions.

(A) *The words and phrases used in this subchapter (51.050-51.055) are herein defined, and for the purpose of this subchapter only, shall be construed as follows, except when otherwise expressly provided.*

(1) State Definitions

All definitions set forth in 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(2) Board

"Board" shall mean the Fort Wayne-Allen County Board of Public Health, Fort Wayne, Allen County, Indiana.

(3) Building

"Building" shall mean a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy or persons, fixtures or personal property, and from which there emanates any sewage.

(4) Commercial

"Commercial" shall mean any building which is not a one or two family dwelling.

(5) Department

"Department" shall mean the Fort Wayne-Allen County Department of Public Health, Fort Wayne, Allen County, Indiana, and/or its employees.

(6) Environmental Health Specialist

"Environmental Health Specialist" means an individual as defined in I.C. 25-32-1-1(B).

(7) Health Commissioner

"Health Commissioner" shall mean the Director of Public Health for the Fort Wayne-Allen County Department of Public Health for Fort Wayne, Allen County, Indiana, (designated as "Health Officer" in the state rules and regulations) and/or his/her authorized representative.

(8) Installer

"Installer" shall mean any person who constructs, installs, replaces, alters, modifies or repairs any residential or commercial sewage disposal system subject to the provisions of this ordinance, other than one which serves his/her/its building. In the event that the person is any association of two or more people, then said association shall designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder.

(9) Permit

"Permit" shall mean a certificate of a size and style approved by the Health Commissioner.

(10) Permittee

"Permittee" shall mean the person who is the owner of the real estate, his/her/its authorized representative, who is responsible for the application of a construction permit and/or operating permit and who shall be responsible for the acceptance of notices at the address listed on the permit applications.

(11) Public Sewer

"Public Sewer" shall mean a sewer to the use of which all owners of abutting property have equal rights and is controlled and maintained by the City or other public authority.

(12) Residential

"Residential" shall mean a building used as a one or two-family dwelling.

(13) Sewage

"Sewage" shall mean the water-carried wastes from residences, business buildings, institutions and industrial establishments, singularly or in any

combination, together with such ground, surface and storm waters as may be present.

(14) Soils Scientist

"Soils Scientist" means an individual who is a Specialist or Classifier, registered with the

American Registry or Certified Professionals in Agronomy, Crops and Soils (ARCPACS).

Sec. 51.051 Sewage Disposal.

(A) State Rules

All rules and regulations of 410 IAC 6-8.1, 410 IAC 6-10, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) Public Sewer Available

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial lot line, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

(C) Public Sewer Not Available

All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

(D) Construction of Privy

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner.

(E) Correction of Defects

Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the sanctions set forth in 51.059 subject, however, to the hearing provisions of 51.058.

(F) Adaptation of Residential Systems

Whenever there is any alteration of the structure or change in the use or occupancy of a residential building that would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

(G) Adaptation of Commercial System

Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

Sec. 51.052 Construction Requirements Of Private Sewage Disposal Systems.

(A) Indiana State Department of Health Requirements

All rules and regulations of 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) "Lot Dimensions"

- (1) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agricultural Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet and suitable soils and topography to permit compliance with this chapter.*

- (2) *Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated severe for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service shall contain a minimum of two (2.0) acres or 87,120 square feet and suitable topography to permit compliance with this chapter.*
- (3) *A permittee, whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County, Indiana, and recorded prior to the effective date of this ordinance as set forth in 51.059 (I) shall not be prohibited from the construction, installation and eventual operation of a residential sewage disposal system solely as the result of his/hers/its lot dimensions being less than those set forth above in (1) and (2), provided that he/she/it meets all other requirements of this ordinance.*

(C) *"On-Site Evaluation"*

At least one boring from the submitted septic disposal system location shall be done with a soil auger. A second sample from the submitted septic disposal system location, and any additional confirmation samples, may be taken with a push probe.

(D) *Requirements for Septic Tanks*

- (1) *Residential septic tanks shall have the following number of gallons:*

- a. *If the number of bedrooms in a dwelling
are one, two, three or four*
1,250 gallon tank
- b. *If the number of bedrooms in a
dwelling are five*
1,500 gallon tank
- c. *If the number of bedrooms in a
dwelling are more than five*
*1,500 gallon tank +
150 gallons x the number of
bedrooms over five*

(E) *Final Grade*

All distribution boxes shall be extended full size to ground level or final grade.

(F) *Access Openings*

All septic tanks shall have at least one (1) access opening of at least ten (10) inches in diameter, for each compartment in said tank for inspection and cleaning purposes. All such access opening shall be extended to ground level and shall be fitted with safely secured, gas tight covers.

(G) Abandoned Septic Tanks

Abandoned septic tanks shall be filled with earth, sand or gravel or shall be removed.

(H) Inspection Pipe

Each private sewage disposal system shall have at least one suitable inspection pipe, which shall be accessible to the Health Commissioner at all reasonable times for the inspection or sampling of effluent. If an inspection pipe does not exist, is not in good repair or is not accessible, such fact shall constitute a defect in the system under 51.051(E).

- (1) The inspection pipe shall be installed at the far end of one of the absorption lines, or just beyond the last equipment or device in any other treatment system.*
- (2) The inspection pipe shall be not less than an eight (8) inch riser of Schedule 40, SDR 22 or SDR 26 PVC pipe or vitrified clay pipe extending above the surface of the ground, with a safely secured easily removable cap or cover and with its lower end connected and arranged to permit the collection, by dipping, of an effluent sample.*

Sec. 51.053 Construction Permit.

(A) Construction Permit Required

An owner or permittee shall first obtain a construction permit from the Health Commissioner prior to the commencement of any excavation, construction, alteration, repair, modification or addition to any existing or new private sewage disposal system.

(B) Permit to be Posted

No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal

system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

(C) Application for Permit

The application for such permit shall be submitted to the Health Commissioner on a form provided by the Health Commissioner and shall be supplemented by any plans, specification and other information deemed necessary by the Health Commissioner or as required by 410 IAC 6-8.1-48.

(D) Permit Fees

Prior to the issuance of any permit, each owner/permittee shall first tender to the Treasurer of Allen County, Indiana, a fee or fees, which shall be deposited into the City-County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule.

(1) New construction - \$75.00

(2) Alteration, modification or repair of existing system - \$50.00

(3) Revision of existing permit prior to construction - \$20.00

(E) Term and Renewal

A construction permit shall be valid for one (1) year from the date of issuance, and may be renewed for up to an additional six (6) months upon application. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

Sec. 51.054 Installers Registration.

(A) Registration Requirements

Except for a person working on his/her/its own private sewage disposal system which serves the dwelling in which he/she/it resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Department as an installer. Persons required to be registered shall be given a grace period of up to six (6) months after the effective date of this Ordinance in which to register with the Department. Application for registration shall be on forms provided by the Department.

(B) Conditions for Registration

- (1) Every person required to register under this section shall be knowledgeable of all laws, rules and regulations of both the state and county governing private sewage disposal systems. Prior to registration, the applicant must demonstrate knowledge of the applicable laws, rules and regulation by passing a proficiency exam conducted by the Department with a score of eight percent (80%) or higher. The registration exam shall be reviewed from time to time to determine its applicability to current laws, rules and regulations. Where taking a written exam is not feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for reexamination shall be afforded to an applicant upon request but no more frequently than once per month.

(C) Seminar

At the request of the Health Commissioner, but not more than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Department of the Indiana State Department of Health.

(D) Expiration

Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15 of each succeeding year.

(E) Annual Fee

For a period of six (6) months after the effective date of this Ordinance, registration under this section shall be without fee. After that date, an annual registration fee of \$40.00 will be charged which shall be paid not later than January 31 of each year.

(F) Notice of Violation

Whenever the Health Commissioner determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Commissioner shall give written notice, in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

- (1) A statement of the alleged violation.

- (2) *An order allowing a reasonable time for the performance of any act required to correct the violation.*

(G) *Suspension or Revocation*

If the violation is not corrected within the designated time, the Health Commissioner may suspend or revoke the installer's registration subject to the provisions contained in 51.058 (B), (C) or (D).

- (1) *If the registration is suspended, the installer may be reinstated by the Health Commissioner upon correction of all violations.*
- (2) *If the registration is revoked, the Health Commissioner shall require, at a minimum, that the installer: 1) be retested; 2) pay the registration fee; and, 3) correct all outstanding violation to the satisfaction of the Health Commissioner prior to being re-registered.*

(H) *Not Registered*

Any person constructing, installing, replacing, altering or repairing any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Ordinance and shall be subject to all penalties set forth in §51.059.

Sec. 51.055 Inspection.

(A) *Commencement of Construction*

Upon issuance of a construction permit under § 51.053(A), the permittee may commence installation and construction of the private sewage disposal system. The Health Commissioner may inspect the work at any state of construction.

(B) *Inspection*

Upon substantial completion of the installation, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

- (1) *No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance and an operation permit has been issued.*

(2) *The inspection shall be made within two (2) working days of the receipt of notice by the Health Commissioner that the system is ready for inspection.*

(C) *Issuance of Operation Permit*

If the system meets all requirements and is in compliance with the law, the Health Commissioner shall issue an Operating Permit.

(D) *Operating Permit Required*

It shall be unlawful for any person to use or operate a private sewage disposal system unless said person possesses a valid operating permit issued by the Health Commissioner.

(E) *Valid Period*

The Operating Permit shall be valid until there is a change in the use associated with the system. The issuance date shall appear on the Permit. The operation permit is not transferable.

(F) *Application for Permit*

The application for an operation permit shall be made to the Health Commissioner on forms provided by the Health Commissioner.

(G) *Time of Issuance*

An operating permit shall be issued within five (5) days of the inspection of the system once the Health Commissioner has determined that the permittee has complied with all applicable provisions of this ordinance, the related state rules and regulations and tendered the appropriate permit fee.

(H) *Renewal*

Renewal of the Operating Permit is the duty of the permittee.

Sec. 51.056 Maintenance And Sampling.

(A) *Sanitary Condition Mandatory*

Every private sewage disposal system shall be constructed and maintained so that the effluent leaving the Permittee's system shall be sanitary.

(B) Inspection and Sampling

The Health Commissioner shall be permitted to enter upon any property at any reasonable time to inspect and take samples from a private sewage disposal system. If said test results should indicate a residential or commercial sewage disposal system failure, said failure shall constitute a violation of §51.051(E).

Sec. 51.057 Economic Hardship.

(A) Economic Hardship

In the event an owner/permittee is unable to comply with the provisions of 51.051(B) due to the economic hardship that might be imposed, then the Health Commissioner may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee shall be required to make the hook-up provided the owner/permittee has an existing private sewage disposal system which is operating properly.

Sec. 51.058 Denial, Suspension, Revocation.

(A) Denial and Approval of Permit

- (1) *In the event the Health Commissioner determines that the application for the Construction Permit and/or Operating Permit does not meet the standards set forth in this chapter, then the Health Commissioner shall be required to notify the Permittee of such denial in writing, within thirty (3) days of the original application, stating the specific reasons for the denial of the permit.*
- (2) *Failure of the Health Commissioner to issue a written denial of a permit an/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within thirty (30) days from the date of application of the Construction Permit shall be construed as an approval of the Construction Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Construction Permit.*
- (3) *Failure of the Health Commissioner to issue a written denial of an Operating Permit and/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within ten*

(10) days from the date of application of the Operating Permit shall be construed as an approval of the Operating Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the Permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Operating Permit.

(B) Suspension of Permit/Registration

The Health Commissioner may order the suspension of a Construction Permit or Operation Permit or installer registration. The Health Commissioner may order the suspension of a permit or registration for any of the following reasons:

- (1) Failure to meet any of the standards of any of the provisions of this Ordinance or violations of any of provisions of this Ordinance.*
- (2) Interference with the Health Commissioner in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Commissioner in the performance of his/her duties.*
- (3) At the request of the permittee or installer, a hearing shall be afforded him/her/it within twenty-four (24) hours of the issuance of the written suspension order. Said hearing shall be conducted as set forth in 51.058(E).*

(C) Revocation or Permit/Registration

Any permit and/or registration issued hereunder may be revoked by the Health Commissioner as the result of the willful or continued violation of any provision of this Ordinance. No such revocation shall be ordered by the Health Commissioner except after a hearing held pursuant to 51.058(E) upon at least ten (10) days written notice to the owner/permittee/installer of the time, place and nature of said hearing. Said notice of hearing shall be served upon the owner/permittee/installer by leaving, or mailing (certified mail) the notice to the address listed by the owner/permittee/installer at his/her/its address on the permit, application or installer registration application.

(D) Immediate Revocation

Notwithstanding any of the other provisions of this Ordinance, whenever the Health Commissioner finds insanitary or other conditions, which, in his/her opinion constitute an imminent health hazard, he/she may, without notice or hearing, issue and serve a written order on the owner/permittee/installer requiring the immediate cessation of operation/installation. Said written order

shall site the existence of the imminent health hazard and shall specify the corrective action to be taken. Such order shall be effective immediately. Upon petition to the Health Commissioner, the permittee/installer shall be afforded a hearing within twenty-four (24) hours of the issuance of the written order. Said hearing shall be conducted as set forth in 51.058(E).

(E) Hearing

At any hearing required under this Ordinance, every owner/permittee/installer who is a party to such proceeding shall have the right to submit evidence, to cross examine witnesses and to be represented by counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitious material shall be excluded. Upon the conclusion of the hearing, the Health Commissioner shall issue a final order determining the issue(s) which shall be conclusive on all parties subject to the right of appeal.

(F) Appeal

- (1) Any owner/permittee/installer aggrieved by an final order of the Health Commissioner shall be entitled to a review of the final order before the Board by filing a written request with the Secretary for the Board within fifteen (15) days of the Health Commissioner's final order.*
- (2) Upon the Secretary's receipt of such request, the Board shall hear the matter de novo in open hearing upon at least ten (10) days written notice of the time, place and nature thereof. The notice shall be issued by the Secretary for the Board to owner/permittee/installer filing the request.*
- (3) The notice shall be served upon the owner/permittee/installer by leaving or mailing (certified mail) the notice to the address listed on the application as his/her/its address or such other address he/she/it shall designate in writing.*
- (4) At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Commissioner. Upon written demand by the owner/permittee/installer, the Board shall cause the proceedings before it to be recorded by a stenographer or reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall be reproduced by said Commissioners of Allen County, Indiana in the form of a transcript, a copy of which shall be available to any party.*
- (5) The expense of such proceedings shall be charged to the owner/permittee/installer who applied for the review, except that copies of the transcript shall be at the expense of the party obtaining same. The*

Commissioners of Allen County, Indiana may require the deposit of an amount determined to secure such expense.

- (6) *The Board shall make written findings of facts and shall enter its final order or determination of the matter in writing in the permanent records of the Board.*

Sec. 51.059 Penalties.

(A) Enforcement

It shall be the duty of the Department and/or the Health Commissioner to enforce the provisions of this Ordinance. Any permit or registration issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an order issued by the Health Commissioner or Board shall be considered to be a violation of this Ordinance.

(B) Violations

Whenever the Health Commissioner determines that any owner, permittee, installer or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Commissioner shall furnish evidence of said willful violation to the Prosecuting Attorney of Allen County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s).

(C) Penalty

Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than \$500.00 for each violation. Each day of the existence of any violation of this Ordinance shall be considered to be a separate offense.

(D) Injunction

The Health Commissioner may bring an action for an injunction in the Circuit or Superior Court of Allen County, Indiana, to restrain any person from violating the provisions of this Ordinance, or to cause such violation to be prevented, abated or removed.

(E) Expense

Any person violating any of the provisions of this Ordinance shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and court costs.

(F) Cumulative

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

Sec. 51.066. Water Obtained from Sources Other Than City's Water Utility.

Where the property obtains any part or all of the water used from sources other than the City's Water Utility, the owner or the tenant *shall may* be required by the City to install and maintain at the user's own expense a meter or meters acceptable to the City for the quantity of water obtained from these other sources. *Once installed no such meter may be bypassed for any reason.*

Sec. 51.067. Exempt Water - General.

Where a significant portion of the metered water does not and cannot enter the sewerage system, either directly or indirectly, the person having charge of the property may request permission from the City to install at the user's expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system. In any case the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of user served. *Plans and specifications for all such meters shall be submitted to the Superintendent of the Water Pollution Control Plant and approved prior to installation.*

**Sec. 51.068.5. Deposit to ensure payment of sewer fees -
Refunds - Forfeitures - Uses.**

- (a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessees, or users of property served by the Utility to pay a deposit to ensure payment of sewer fees.*
- (b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.*
- (c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:*

1. *Has been conveyed or transferred to another person; or*
2. *No longer uses or is connected with any part of the municipal sewage system.*

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) *If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.*
- (e) *A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.*

Sec. 51.069. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents with the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
<i>Treatment</i>	<i>67.44</i>
<i>Conveyance, Collection, Billing</i>	<i>52.54</i>
<i>Capital</i>	<i>29.59</i>
<i>Total User Charge</i>	<u>149.57</u>

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65.

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.

<i>Treatment</i>	<i>84.30</i>
<i>Conveyance, Collection, Billing</i>	<i>65.68</i>
<i>Capital</i>	<i>36.99</i>
<i>Total User Charge</i>	<i><u>186.97</u></i>

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter inside city or outside city shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Outside-City</u>
<i>Residential User-Single Family Dwelling</i>	<i>\$16.61</i>	<i>\$20.76</i>
<i>Residential User-Multi Family Dwelling</i>	<i>To be estimated by City</i>	

- 1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges.*
- 2) The Utility shall retain documentation supporting its estimates and the billings based thereon such determination of billings may be reviewed and adjusted by the*

Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

D. Inbalco Capital Surcharge - per month \$4.65

Sec. 51.070. Industrial User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. Other Industrial User Charges

	<u>Inside City</u>	<u>Outside City</u>
1) Monthly billing charge-per bill	\$ 1.65	\$ 1.65
2) <u>Excess Strength of Wastes Surcharge</u> - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics, as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:		

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the even any user in this classification is not metered water customer, there shall be imposed a flat charge estimated by the City.

Sec. 51.071. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
<i>Treatment</i>	67.44	84.30
<i>Conveyance, Collection, Billing</i>	52.54	65.68
<i>Capital</i>	29.59	36.99
 <i>Total User Charge</i>	 <u>102.77</u>	 <u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City.

C. Other Commercial Charges

1. *Inbalco Capital Surcharge - per month* \$4.65

2. *Monthly Billing Charge - per bill*

<u>Inside City</u>	<u>Outside City</u>
1.65	1.65

3. *Excess Strength*

a. *In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.*

b. *Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b) shall be presumed to fall within this category.*

Sec. 51.072. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>102.77</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

C. Other Institutional Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

3. Inbalco Capital Surcharge - per month	\$ 4.65
--	---------

Sec. 51.073. Governmental User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption unless otherwise measured in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City.

C. Other Governmental User Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

3. <u>Inbalco Capital Surcharge</u> - per month	\$4.65
---	--------

Sec. 51.074. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.).

Treatment	56.06	67.44
Capital Charge	.34	
	56.40	

b) Variable Charge (cents per 100 cu. ft.).

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith *available to* ~~used by~~ the contract customer shall be computed by the City and added to the ~~volume~~ ~~surcharge~~ ~~treatment cost~~ *to arrive at the contractee's total metered rate.*

c) **Flat Charge.**

In addition to the foregoing charge based on volume of sewage treated and conveyed each contract customer will pay a monthly billing charge of ~~\$3.15~~ \$1.65 and a *an appropriate* monthly surveillance charge of ~~\$146.65~~ *based on the type of testing necessary according to the contractee's customer base.*

d) **Excess Strength of Waste Surcharge.**

In the event ~~an institutional user~~ *a contract customer* contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>	
Suspended Solids - (SS)	\$ 6.12	\$ 6.83
Biochemical Oxygen Demand - (BOD)	6.79	14.17
Phosphorus - (P)	55.14	96.17
Ammonia - (NH-3)	16.73	20.74

Sec. 51.075. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal ~~directly through the plant digestors~~ which has been delivered by ~~the Customer~~ *an approved waste hauler* to City's plant - ~~\$287.50~~ \$93.81 per load. For purposes of computing charges hereunder, a load is defined as ~~5,000~~ 1,000 gallons of tank capacity or fraction thereof.

Domestic - for all domestic waste delivered to plant by customer's truck or tank - ~~\$37.25~~ \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or fraction thereof.

All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

Sec. 51.076. Liability for Surcharge.

Each user discharging wastes into the ~~sewerage~~ *collection* system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

Sec. 51.077. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 24-38 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. ~~set out in Section 24-31.~~ In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

Sec. 51.078. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to *the following* ~~a monthly~~ fixed charge to cover the costs of such services ~~in the amount of \$146.65 per discharge point. In the event any user is not in compliance with effluent discharge limitations, as set forth elsewhere herein, and such non-compliance requires additional surveillance, sampling and waste evaluation, the user will be charged \$146.65 per occurrence.~~

Monthly Evaluation Charges

Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58

Evaluation Charges - Per Occurrence

Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Grab Compliance (FOG)	76.00
Composite Compliance	190.00 *

* Plus applicable laboratory testing charges.

However, Commercial Users primarily engaged in the business of preparing and selling cooked food items and beverages as derived in section 24-32 shall be subject to waste evaluations and/or surveillance sampling at least semi-annually, the cost for which shall be billed to said user.

Sec. 51.099. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewerage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

Sec. 51.100. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewerage services, penalties *of 10% of the delinquent fees* and reasonable attorney's fees in a civil action, and may foreclose liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

Sec. 51.111. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by ~~the Superintendent of the Water Pollution Control Plant~~ *Director of City Utilities* and such deputies as ~~he~~, with the approval of the Board of Public Works, may *be appointed* for such purposes. Whenever said ~~Superintendent~~ *Director* or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and *the Sewer Utility Rules and Regulations*, or pursuant to an ordinance adopted in accordance with I.C. §36-1-6-9.

Sec. 51.999. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be ~~deemed to have committed a Class B infraction and upon conviction thereof~~ be subject to a fine of up to ~~\$1,000.00~~ *\$2,500.00* per ~~infraction~~ *day as set out at Section 10.99 of the City of Fort Wayne Code of Ordinances* or as otherwise provided by ~~Indiana Law Code 34-4-32-4~~. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

Read the first time in full and on motion by Crawford,
and duly adopted, read the second time by title and referred to the Committee on Lunsey, (and the City Plan Commission for recommendation)
and Public Hearing to be held after due legal notice, at the Common Council Conference
Room 128, City-County Building, Fort Wayne, Indiana, on Monday,
the 13th day of May, 1997, at 5:30
o'clock P. M., E.S.T.

DATED: 4-22-97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full
and duly adopted, placed on its passage.
by the following vote:

and on motion by
PASSED

LOST

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES				
BENDER				
CRAWFORD				
EDMONDS				
HALL				
HAYHURST				
HENRY				
LUNSEY				
RAVINE				
SCHMIDT				

DATED: _____

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL)
(ZONING) ORDINANCE RESOLUTION NO. _____
on the _____ day of _____, 19 _____

ATTEST:

SEAL

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the
_____ day of _____, 19 _____,
at the hour of _____, o'clock _____, M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day
of _____, 19 _____, at the hour of _____
o'clock _____ M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

BILL NO. G-97-04-10

As Amended
As Amended
As Amended
REPORT OF THE COMMITTEE ON FINANCE

JOHN N. CRAWFORD - DONALD J. SCHMIDT - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON FINANCE TO WHOM
WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Chapter
51 of the City of Fort Wayne Code of Laws

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

James A. Crawford
Donald J. Schmidt

Richard J. ...
Robert A. ...

Ronald E. ...
...

...

DATED: 7-1-97

Sandra E. Kennedy
City Clerk



The City of Fort Wayne
City Utilities

SEWER

G-97-04-10

MEMORANDUM

TO: Fort Wayne City Council Members

FROM: Linda Peterson Powell, Counsel to City Utilities *LP*

DATE: May 16, 1997

RE: **ORDINANCE AMENDING CHAPTER 51**

The following changes to an Ordinance Amending Chapter 51, Ordinance No. G-97-04-10 are necessary due to scriveners or mathematical errors:

- ✓ Page 22, Line 22 reading 7.44, should read 67.44
- ✓ Page 23, Line 21 Outside City rate currently reads 20.76, should read 20.35
- Page 25, Line 13 Inside City Total Should read 149.57*

Further, all references to the Imbalco Capital Surcharge of \$4.65 should be deleted.

Specifically, the following sections and lines on/or/about are affected:

- ✓ Page 24, Line 3 delete
- ✓ Page 25, Line 19 delete
- ✓ Page 26, Line 24 delete
- ✓ Page 27, Line 21 delete

If you have questions concerning this information, please feel free to contact me at 427-1344.

mlg

to the depositor after a notarized statement from the depositor on a certain date the property being served:

1. Has been conveyed or transferred to another person.
2. No longer uses or is connected with any part of the sewer system.

*corrected
pages*

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- (e) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

Sec. 51.069. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.

Treatment	67.44
Conveyance, Collection, Billing	52.54
Capital	29.59

Total User Charge 149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	<u>186.97</u>

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Outside-City</u>
Residential User-Single Family Dwelling	\$16.61	<u>\$20.35</u>
Residential User-Multi Family Dwelling	To be estimated by City	

- 1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.
- 2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and

adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

Sec. 51.070. Industrial User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. Other Industrial User Charges

- | | <u>Inside City</u> | <u>Outside City</u> |
|--|--------------------|---------------------|
| 1) Monthly billing charge - per bill | \$ 1.65 | \$ 1.65 |
| 2) <u>Excess Strength of Wastes Surcharge</u> - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations: | | |

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the even any user in this classification is not a metered water customer, there shall

be imposed a flat charge estimated by the City. A 25 % surcharge shall apply to the rate charged to such users located out the City.

Sec. 51.071. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>102.77</u>	<u>186.97</u>

B. User Flat Charges

149.57

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

2. Monthly Billing Charge - per bill	<u>Inside City</u>	<u>Outside City</u>
	1.65	1.65
3. Excess Strength		

a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.

b. Restaurants - Commercial users primarily engaged in the business of

preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b) shall be presumed to fall within this category.

Sec. 51.072. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

1 **Sec. 51.073. Governmental User Charges.**

2 **A. Service Charge**

3 Charges for services rendered shall be based on metered water consumption, unless
4 otherwise measured, in accordance with the following charges for this classification
5 of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside</u> <u>City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

10 **B. User Flat Charges**

11 In the event any user in this classification is not a metered water customer, there shall
12 be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the
13 rate charged to users located outside the City.

14 **C. Other Governmental User Charges**

	<u>Inside City</u>	<u>Outside</u> <u>City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

18 In the event any user under this classification contributes waste having a
19 strength of sewage in excess of domestic waste characteristics as hereinbefore
20 defined, such user will be charged for surveillance and surcharges as set forth
21 elsewhere herein for Industrial Users.

23 **Sec. 51.074. Contract Customers - Unit and Other Charges.**

24 In the event the City consummates a contract to serve as a regional treatment plant
25 for any other municipality or private sewage utility, either contiguous to the City or
26 in its environs, said contract shall provide for the following unit charges:



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1221

SANDRA E. KENNEDY, CITY CLERK

April 28, 1997

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the date of May 2, 1997,
in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Notice of a Public Hearing
Bill No. G-97-04-10
Concerning changes or readjustments in
fees charged by the City of Water
Pollution Control Utility ("Sewage
Works")

Please send us 3 copies of the Publisher's Affidavit from both
newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

NOTICE OF PUBLIC HEARING CONCERNING
PROPOSED CHANGES OR READJUSTMENTS OF
FEES CHARGED BY THE CITY OF FORT WAYNE
WATER POLLUTION CONTROL UTILITY ("SEWAGE
WORKS").

NOTICE IS HEREBY GIVEN THAT THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, WILL CONDUCT A PUBLIC HEARING ON TUESDAY, MAY 13, 1997, AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY-COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA, CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL. THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures -Uses.

- (a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- (b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- (c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
 - 1. Has been conveyed or transferred to another person; or
 - 2. No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- (e) A deposit made under this section that has remained unclaimed by the depositor

for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	7.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	<u>149.57</u>

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65.

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	<u>186.97</u>

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be

billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Outside-City</u>
Residential User-Single Family Dwelling	\$16.61	\$20.76
Residential User-Multi Family Dwelling	To be estimated by City	

- 1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.
- 2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

D. Inbalco Capital Surcharge - per month \$4.65

3. Industrial User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68

Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. Other Industrial User Charges

	<u>Inside City</u>	<u>Outside City</u>
1) Monthly billing charge - per bill	\$ 1.65	\$ 1.65
2) <u>Excess Strength of Wastes Surcharge</u> - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:		

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the even any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25 % surcharge shall apply to the rate charged to such users located out the City.

4. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>102.77</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

- | | | | |
|----|---------------------------------------|--------------------|---------------------|
| 1. | Inbalco Capital Surcharge - per month | | \$ 4.65 |
| 2. | Monthly Billing Charge - per bill | <u>Inside City</u> | <u>Outside City</u> |
| | | 1.65 | 1.65 |
| 3. | Excess Strength | | |

- a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- b. Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b) shall be presumed to fall within this category.

5. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

3. Inbalco Capital Surcharge - per month	\$ 4.65
--	---------

6. Governmental User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

3. <u>Inbalco Capital Surcharge</u> - per month	\$4.65
---	--------

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) **Volume Charge (cents per 100 cu. ft.).**

Treatment	67.44
-----------	-------

b) **Variable Charge (cents per 100 cu. ft.).**

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) **Flat Charge.**

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) **Excess Strength of Waste Surcharge.**

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined,

a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) **Capital Charge.**

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) **Capital Surcharge.**

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) **Other Provisions.**

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract applicable to its users customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1). Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

8. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Water Hauler to City's plant - \$93.81 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Waste Hauler Manifest", the form for which will be provided by the City.

All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

9. Liability for Surcharge.

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.
- e) Ammonia content of 25 milligrams per liter.

10. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

10. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges

Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58

Evaluation Charges - Per Occurrence

Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Grab Compliance (FOG)	76.00
Composite Compliance	190.00 *

* Plus applicable laboratory testing charges.

11. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewerage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

12. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewerage services, penalties of 10% of the delinquent fees and reasonable attorney's fees in a civil action, and may foreclose liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

13. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Director of City Utilities and such deputies as Director, with the approval of the Board of Public Works, may be appointed for such purposes. Whenever said Director or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and the Sewer Utility Rules and Regulations, or pursuant to an ordinance adopted in accordance with I.C. §36-1-6-9.

14. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be subject to a fine of up to \$2,500.00 per day as set out at Section 10.99 of the City of Fort Wayne Code of Ordinances or as otherwise provided by Indiana Law. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

USERS OF THE SEWAGE WORKS, OWNERS OF PROPERTY SERVED OR TO BE SERVED BY THE SEWAGE WORKS, AND OTHER INTERESTED PERSONS ARE INVITED TO APPEAR AND BE HEARD CONCERNING THE PROPOSED FEES. THE HEARING MAY BE ADJOURNED FROM TIME TO TIME WITHOUT FURTHER PUBLISHED NOTICE. AFTER THE HEARING, THE COMMON COUNCIL MAY ADOPT THE SCHEDULE OF FEES, EITHER AS ORIGINALLY INTRODUCED OR AS MODIFIED.

"REASONABLE ACCOMMODATIONS" FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH STATE AND FEDERAL LAW. ANY PERSON NEEDING A "REASONABLE ACCOMMODATION" SHALL NOTIFY PUBLIC INFORMATION OFFICE (219)427-1120, TTY (219) 427-1200, AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO THE MEETING.

SANDRA E. KENNEDY
CITY CLERK



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1221

SANDRA E. KENNEDY, CITY CLERK

May 20, 1997

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the date of May 23, 1997,
both the News Sentinel and Journal Gazette.

RE: Notice for Common Council
of Fort Wayne, IN

Amended Notice of Proposed
changes or readjustments of
fees charged by the City of
Fort Wayne Water Pollution
Control Utility ("Sewage Works")
(Bill No. G-97-04-10)

Please send us 3 copies of the Publisher's Affidavit from both
newspapers.

Thank you.

Sincerely yours,


Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

AMENDED NOTICE OF
PROPOSED CHANGES OR READJUSTMENTS OF
FEES CHARGED BY THE CITY OF FORT WAYNE
WATER POLLUTION CONTROL UTILITY ("SEWAGE
WORKS").

DUE TO SCRIVENERS OR MATHEMATICAL ERRORS IN THE ORIGINAL PUBLICATION OF A NOTICE OF PUBLIC HEARING BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, ON TUESDAY, MAY 13, 1997 AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY-COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA, THIS AMENDED NOTICE IS HEREBY PUBLISHED CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL. THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- (a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- (b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- (c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
 - 1. Has been conveyed or transferred to another person; or
 - 2. No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- (e) A deposit made under this section that has remained unclaimed by the depositor for more

than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	67.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	<u>149.57</u>

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65.

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	<u>186.97</u>

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or

outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In City</u>	<u>Outside-City</u>
Residential User-Single Family Dwelling	\$16.61	\$20.35
Residential User-Multi Family Dwelling	To be estimated by City	

- 1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.
- 2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

3. Industrial User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. Other Industrial User Charges

	<u>Inside City</u>	<u>Outside City</u>
1) Monthly billing charge - per bill	\$ 1.65	\$ 1.65
2) <u>Excess Strength of Wastes Surcharge</u> - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:		

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the even any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25 % surcharge shall apply to the rate charged to such users located out the City.

4. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

1.	Monthly Billing Charge - per bill	<u>Inside City</u>	<u>Outside City</u>
		1.65	1.65

2. Excess Strength

a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.

b. Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b) shall be presumed to fall within this category.

5. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

6. Governmental User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

<u>Cents per 100 cu. ft.</u>	<u>Inside City</u>	<u>Outside City</u>
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	<u>149.57</u>	<u>186.97</u>

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

	<u>Inside City</u>	<u>Outside City</u>
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) **Volume Charge (cents per 100 cu. ft.).**

Treatment	67.44
-----------	-------

b) **Variable Charge (cents per 100 cu. ft.).**

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) **Flat Charge.**

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) **Excess Strength of Waste Surcharge.**

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	\$ 6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) **Capital Charge.**

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) **Capital Surcharge.**

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) **Other Provisions.**

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract applicable to its users customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1). Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

8. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Water Hauler to City's plant - \$93.81 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Waste Hauler Manifest", the form for which will be provided by the City.

All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

9. Liability for Surcharge.

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.
- e) Ammonia content of 25 milligrams per liter.

10. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge, In the event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

11. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges

Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58

Evaluation Charges - Per Occurrence

Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Grab Compliance (FOG)	76.00
Composite Compliance	190.00 *

* Plus applicable laboratory testing charges.

12. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewerage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

13. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewerage services, penalties of 10% of the delinquent fees and reasonable attorney's fees in a civil action, and may foreclose liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

14. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Director of City Utilities and such deputies as Director, with the approval of the Board of Public Works, may be appointed for such purposes. Whenever said Director or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and the Sewer Utility Rules and Regulations, or pursuant to an ordinance adopted in accordance with I.C. §36-1-6-9.

15. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be subject to a fine of up to \$2,500.00 per day as set out at Section 10.99 of the City of Fort Wayne Code of Ordinances or as otherwise provided by Indiana Law. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

USERS OF THE SEWAGE WORKS, OWNERS OF PROPERTY SERVED OR TO BE SERVED BY THE SEWAGE WORKS, AND OTHER INTERESTED PERSONS ARE INVITED TO APPEAR AND BE HEARD CONCERNING THE PROPOSED FEES. THE HEARING MY BE ADJOURNED FROM TIME TO TIME WITHOUT FURTHER

PUBLISHED NOTICE. AFTER THE HEARING, THE COMMON COUNCIL MAY ADOPT THE SCHEDULE OF FEES, EITHER AS ORIGINALLY INTRODUCED OR AS MODIFIED.

"REASONABLE ACCOMMODATIONS" FOR PERSONS WITH A KNOWN DISABILITY CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH STATE AND FEDERAL LAW. ANY PERSON NEEDING A "REASONABLE ACCOMMODATION" SHALL NOTIFY PUBLIC INFORMATION OFFICE (219) 427-1120, TTY 427-1200, AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO THE MEETING.

SANDRA E. KENNEDY
CITY CLERK

FORT WAYNE COMMON COUNCIL
(Governmental Unit)To: The News-Sentinel Dr.
P.O. Box 100
Fort Wayne, INALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines _____

Head -- number of lines _____

Body -- number of lines _____

Tail -- number of lines _____

Total number of lines in notice _____

COMPUTATION OF CHARGES

336 lines, 1 columns wide equals 336 equivalent lines
at .364 cents per line \$ 122.30Additional charge for notices containing rule or tabular work
(50 percent of above amount) 61.15Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 1.00TOTAL AMOUNT OF CLAIM \$ 184.45

DATA FOR COMPUTING COST

Width of single column 12.5 emsNumber of insertions 1Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Linda RuchDate: MAY 7th, 19 97Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

ATTACH COPY
OF ADVERTISEMENT
HEREPersonally appeared before me, a notary public in and for said county and state, the undersigned LINDA L RUCH who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time _____, the dates of publication being as follows:5-2-97Linda RuchSubscribed and sworn to before me this 7th day of MAY, 19 97.Mary L Schneider
Notary PublicMy commission expires: MARY L SCHNEIDER
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP JUNE 14, 1997

FORT WAYNE COMMON COUNCIL
(Governmental Unit)

To:

The Journal-Gazette

Dr.

P.O. Box 100

Fort Wayne, IN

ALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

336 lines, 1 columns wide equals 336 equivalent lines
at .364 cents per line\$ 122.30Additional charge for notices containing rule or tabular work
(50 percent of above amount)61.15

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

1.00

TOTAL AMOUNT OF CLAIM

\$ 184.45

DATA FOR COMPUTING COST

Width of single column 12.5 emsNumber of insertions 1Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: MAY 7th, 19 97Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned LINDA L RUCH who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time, the dates of publication being as follows:

5-2-97Subscribed and sworn to before me this 7th day of MAY, 19 97.

Notary Public

My commission expires:

MARY L SCHNEIDER
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP JUNE 14, 1997ATTACH COPY
OF ADVERTISEMENT
HERE

FW COMMON COUNCIL

(Governmental Unit)

To:

The News-Sentinel

Dr.

P.O. Box 100

Fort Wayne, IN

ALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

144 lines, 4 columns wide equals 576 equivalent lines
at .364 cents per line

\$ 209.66

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

104.83

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

1.00

TOTAL AMOUNT OF CLAIM

\$ 315.49

DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 1

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: JUNE 6, 19 97

Title: Jamie M. Custer Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

ATTACH COPY
OF ADVERTISEMENT
HERE

Personally appeared before me, a notary public in and for said county and state, the undersigned JAMIE M. CUSTER who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time, the dates of publication being as follows:

5-23-97

Subscribed and sworn to before me this 6th day of JUNE, 19 97.

Notary Public

MARY L SCHNEIDER
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP JUNE 14, 1997

~~FW COMMON COUNCIL~~
(Governmental Unit)

To: The Journal-Gazette Dr.
P.O. Box 100
Fort Wayne, IN

ALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

144 lines, 4 columns wide equals 576 equivalent lines
at .364 cents per line

\$ 209.66

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

104.83

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

1.00

TOTAL AMOUNT OF CLAIM

\$ 315.49

DATA FOR COMPUTING COST

Width of single column 12.5 emsNumber of insertions 1

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: JUNE 6, 19 97

Title: V Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) SS:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned JAMIE M. CUSTER who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time , the dates of publication being as follows:

5-23-97

Subscribed and sworn to before me this 6th day of JUNE, 1997.

Mary L. Schneider
Notary Public

MARY L SCHNEIDER
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY

My commission expires:

MY COMMISSION EXP JUNE 14, 1997



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1221

SANDRA E. KENNEDY, CITY CLERK

July 10, 1997

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the date of July ¹⁵~~14~~, 1997, in both the News Sentinel and Journal Gazette.


RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-97-04-10
(as amended) (as amended) (as amended)
General Ordinance No. G-07-97
Amending Chapter 51
Sewer Ordinance

Please send us 3 copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely yours,


Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

Notice is hereby given that on the _____ 1st _____ day of
_____July_____, 1997_____, the Common Council of the City
of Fort Wayne, Indiana, in a _____ Special _____ Session did pass
the following Bill No. G-97-04-10 (as amended)(as amended) (as amended) General
Ordinance No. G-07-97 _____ to-wit:

BILL NO. G-97-04-10 (AS AMENDED, AS AMENDED, AS AMENDED)

GENERAL ORDINANCE NO. G-07-97

**AN ORDINANCE AMENDING CHAPTER 51 OF
THE CITY OF FORT WAYNE CODE OF LAWS.**

WHEREAS, the City of Fort Wayne has several areas within its
borders which are not currently served by a public sewer and wishes to provide for
both the orderly residential development and the proper disposal of sewage from
residential properties; and

WHEREAS, the City of Fort Wayne wishes to provide for a basic
threshold level of knowledge and registration for all installers of septic systems to
insure the proper construction, installation and inspection of septic systems on real
estate adequately suited for this type of disposal of sewage, based on current
technology and state regulations; and

WHEREAS, City Utilities has not, in the past, requested deposits
based on sewage consumption despite Indiana Code 36-9-23-28 specifically
providing for such deposits in order to protect the financial stability of the sewer
utility.

WHEREAS, pursuant to Indiana Code 36-9-23-25, the Common
Council of the City of Fort Wayne has enacted a User Charge System and a Sewer
Use Ordinance as contained in Chapter 51 of the Fort Wayne Code of Ordinances;

1 **SECTION 3.** That this Ordinance shall be in full force and effect from and
2 after its passage, and any and all necessary approval by the Mayor and due legal
3 publication thereof.
4
5
6
7

John N. Crawford



COUNCIL MEMBER

Read the third time in full and on motion by Crawford, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight
Bender, Crawford, Edmonds, Hall, Hayhurst,
Henry, Lunsey, Schmidt
NAYS: None
ABSTAINED: None
ABSENT: One
Ravine

DATED: 7-1-97

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-07-97 on the 1st day of July, 1997

ATTEST: SEAL

Sandra E. Kennedy
City Clerk

Thomas C. Henry
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of July, 1997, at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 9th day of July, 1997, at the hour of 11:45 o'clock A.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-07-97, passed by the Common Council on the 1st day of July, 19 97, and that said Ordinance was duly signed and approved by the Mayor on the 9th day of July, 19 97, and now remains on file and on record in my office..

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 9th day of July, 19 97.

[Handwritten signature: S. E. Kennedy]

FW COMMON COUNCIL
(Governmental Unit)

To: The Journal-Gazette Dr.
P.O. Box 100
Fort Wayne, IN

ALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines
Head -- number of lines
Body -- number of lines
Tail -- number of lines
Total number of lines in notice

COMPUTATION OF CHARGES

1664 lines, 1 columns wide equals 1664 equivalent lines
at .364 cents per line \$ 605.70
Additional charge for notices containing rule or tabular work (50 percent of above amount)
Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 1.00
TOTAL AMOUNT OF CLAIM \$ 606.70

DATA FOR COMPUTING COST

Width of single column 12.5 ems
Number of insertions 1
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.
Julie L Smith
Date: JULY 16, 19 97 Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

ATTACH COPY
OF ADVERTISEMENT
HERE

Personally appeared before me, a notary public in and for said county and state, the undersigned JULIE L SMITH who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time, the dates of publication being as follows:

7-16-97

Julie L Smith
Subscribed and sworn to before me this 16th day of JULY, 19 97.

Mary L Schneider
Notary Public
MARY L SCHNEIDER
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
My commission expires: MY COMMISSION EXP JUNE 14, 2001

FW COMMON COUNCIL

(Governmental Unit)

To:

The News-Sentinel

Dr.

P.O. Box 100

Fort Wayne, IN

ALLEN

County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)

-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

1664 lines, 1 columns wide equals 1664 equivalent lines
at .364 cents per line

\$ 605.70

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

1.00

TOTAL AMOUNT OF CLAIM

\$ 606.70

DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 1

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount
claimed is legally due, after allowing all just credits, and that no part of the
same has been paid.

Date: JULY 16, 19 97

Title: Julie L Smith Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

ATTACH COPY
OF ADVERTISEMENT
HERE

Personally appeared before me, a notary public in and for said county and state, the
undersigned JULIE L SMITH who, being duly sworn, says that he/
she is Clerk of the The News-Sentinel newspaper of general
circulation printed and published in the English language in the (city) (town) of
Fort Wayne, IN in state and county aforesaid, and that the printed matter
attached hereto is a true copy, which was duly published in said paper for
1 time, the dates of publication being as follows:

7-16-97

Subscribed and sworn to before me this 16th day of JULY, 19 97.

My commission expires:

MARY L SCHNEIDER
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP JUNE 14, 2001

AMENDED NOTICE OF PROPOSED CHANGES OR READJUSTMENTS OF FEES CHARGED BY THE CITY OF FORT WAYNE WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") DUE TO SCRIVENERS OR MATHEMATICAL ERRORS IN THE ORIGINAL PUBLICATION OF A NOTICE OF PUBLIC HEARING BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, ON TUESDAY, MAY 13, 1997 AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY-COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA. THIS AMENDED NOTICE IS HEREBY PUBLISHED CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL, THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
- Has been conveyed or transferred to another person; or
 - No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.

- e) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

A. In City Service Charge

1. In City
Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	67.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65

B. Outside City Service Charge

1. Outside City
Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	186.97

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

Classification of Customer	Inside City	Outside City
Residential User - Single Family Dwelling	\$16.61	\$20.35
Residential User - Multi Family Dwelling	To be estimated by City	

- 1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.
- 2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

3. Industrial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. Other Industrial User Charges

1. Monthly billing charge - per bill
2. Excess Strength of Wastes Surcharge - in the event an industrial user contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to such users located outside the City.

D. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

1. Monthly Billing Charge - per bill

Inside City	Outside City
1.65	1.65

2. Excess Strength

- a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- b. Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b)

C. Institutional User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

1. Monthly Billing Charge - per bill

Inside City	Outside City
1.65	1.65

2. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

6. Government User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

1. Monthly Billing Charge - per bill

Inside City	Outside City
1.65	1.65

2. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.)

Treatment 67.44

b) Variable Charge (cents per 100 cu. ft.)

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) Flat Charge

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) Excess Strength of Waste Surcharge.

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) Capital Charge

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) Capital Surcharge

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract applicable to its users customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1), Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

8. Bulk Waste Charges

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Water Hauler to City's plant - \$93.81 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Waste Hauler Manifest", the form for which will be provided by the City.

All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

9. Liability for Surcharge

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.
- e) Ammonia content of 25 milligrams per liter.

10. Computation of Surcharge

The surcharge shall be determined as follows:

The excess pounds of BOD, or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0002321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. In event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

11. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges	
Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58
Evaluation Charges - Per Occurrence	
Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Crab Compliance (FOG)	76.00
Composite Compliance	190.00*
*Plus applicable laboratory testing charges.	

12. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

13. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewage services, penalties of 10% of the delinquent fees and reasonable attorney's fees in a civil action, and may foreclose liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

14. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Director of City Utilities and such deputies as Director, with the approval of the Board of Public Works, may be appointed for such purposes. Whenever said Director, or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and the Sewer Utility Rules and Regulations, or pursuant to ordinance adopted in accordance with I.C. Sub Section 36-1-6-9.

15. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be subject to a fine of up to \$2,500.00 per day as set out at Section 10.99 of the City of Fort Wayne Code of Ordinances or as otherwise provided by Indiana Law. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

USERS OF THE SEWAGE WORKS, OWNERS OF PROPERTY SERVED OR TO BE SERVED BY THE SEWAGE WORKS, AND OTHER INTERESTED PERSONS ARE INVITED TO APPEAR AND BE HEARD CONCERNING THE PROPOSED FEES. THE HEARING MAY BE ADJOURNED FROM TIME TO TIME WITHOUT FURTHER PUBLISHED NOTICE. AFTER THE HEARING, THE COMMON COUNCIL MAY ADOPT THE SCHEDULE OF FEES, EITHER AS ORIGINALLY INTRODUCED OR AS MODIFIED.

"REASONABLE ACCOMMODATIONS" FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH A STATE AND FEDERAL LAW ANY PERSON NEEDING A "REASONABLE ACCOMMODATION" SHALL NOTIFY PUBLIC INFORMATION OFFICE (219) 427-1120, TTY (219) 427-1200, AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO THE MEETING.

SANDRA E. KENNEDY
CITY CLERK
733

NOTICE OF PUBLIC HEARING CONCERNING PROPOSED CHANGES OR READJUSTMENTS OF FEES CHARGED BY THE CITY OF FORT WAYNE WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS"). NOTICE IS HEREBY GIVEN THAT THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, WILL CONDUCT A PUBLIC HEARING ON TUESDAY, MAY 13, 1997, AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA, CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL. THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
 - Has been conveyed or transferred to another person; or
 - No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

A. In City Service Charge

1. In City

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	7.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	186.97

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

Classification of Customer

	Monthly Flat Charge (1)	
	In City	Outside City
Residential User - Single Family Dwelling	\$16.61	\$20.76
Residential User - Multi Family Dwelling	To be estimated by City	

- Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.

- The Utility shall retain documentation supporting its estimates and billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

D. Inbalco Capital Surcharge - per month \$4.65

3. Industrial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. Other Industrial User Charges

- Monthly billing charge - per bill \$1.65
- Excess Strength of Wastes Surcharge - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to such users located outside the City.

4. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	102.77	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

- Inbalco Capital Surcharge - per month \$4.65
 - Monthly Billing Charge - per bill
- | | Inside City | Outside City |
|--|-------------|--------------|
| | 1.65 | 1.65 |

3. Excess Strength

- In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extrastrength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this chapter, a user qualified to hold a supplemental retailer's permit under Indiana code 7.1-3-16.5-2 (a) or (b) shall be presumed to fall within this category.

5. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

- Monthly Billing Charge - per bill
- | | Inside City | Outside City |
|--|-------------|--------------|
| | 1.65 | 1.65 |

1. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.

- Inbalco Capital Surcharge - per month \$4.65

6. Governmental User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

- Monthly Billing Charge - per bill
- | | Inside City | Outside City |
|--|-------------|--------------|
| | 1.65 | 1.65 |

1. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

- Inbalco Capital Surcharge - per month \$4.65

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.)

- Treatment 67.44

b) Variable Charge (cents per 100 cu. ft.)

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) Flat Charge.

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) Excess Strength of Waste Surcharge.

In the event of contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) Capital Charge.

NOTICE OF PUBLIC HEARING CONCERNING PROPOSED CHANGES OR READJUSTMENTS OF FEES CHARGED BY THE CITY OF FORT WAYNE WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS"). NOTICE IS HEREBY GIVEN THAT THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, WILL CONDUCT A PUBLIC HEARING ON TUESDAY, MAY 13, 1997, AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA, CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL. THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- (a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- (b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- (c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
1. Has been conveyed or transferred to another person; or
 2. No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- (d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.

- (e) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

A. In City Service Charge

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	7.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	186.97

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

Classification of Customer	Monthly Flat Charge (1)
	In City Outside City
Residential User - Single Family Dwelling	\$16.61 \$20.76
Residential User - Multi Family Dwelling	To be estimated by City

- (1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.

- (2) The Utility shall retain a documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

3. Inbalco Capital Surcharge - per month \$4.65

D. Inbalco Capital Surcharge

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. Other Industrial User Charges

	Inside City	Outside City
--	-------------	--------------

(1) Monthly billing charge - per bill \$1.65 \$1.65

- (2) Excess Strength of Wastes Surcharge - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to such users located outside the City.

4. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	102.77	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

	Inside City	Outside City
1. Inbalco Capital Surcharge - per month		\$4.65
2. Monthly Billing Charge - per bill	1.65	1.65

3. Excess Strength

- a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- b. Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this chapter, a user qualified to hold a supplemental retailer's permit under Indiana code 7.1-3-16.5-2 (a) or (b) shall be presumed to fall within this category.

5. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Institutional Charges

	Inside City	Outside City
1. Monthly Billing Charge - per bill	1.65	1.65

2. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.

3. Inbalco Capital Surcharge - per month \$4.65

6. Governmental User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

	Inside City	Outside City
1. Monthly Billing Charge - per bill	1.65	1.65

2. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

3. Inbalco Capital Surcharge - per month \$4.65

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.)

Treatment	67.44
-----------	-------

b) Variable Charge (cents per 100 cu. ft.)

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) Flat Charge.

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) Excess Strength of Waste Surcharge.

In the event of contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) Capital Charge.

AMENDED NOTICE OF PROPOSED CHANGES OR READJUSTMENTS OF FEES CHARGED BY THE CITY OF FORT WAYNE WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS")
DUE TO SCRIBENERS OR MATHEMATICAL ERRORS IN THE ORIGINAL PUBLICATION OF A NOTICE OF PUBLIC HEARING BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, ON TUESDAY, MAY 13, 1997 AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY-COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA, THIS AMENDED NOTICE IS HEREBY PUBLISHED CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL. THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
1. Has been conveyed or transferred to another person; or
 2. No longer uses or is connected with any part of the municipal sewage system.
- A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.
- d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- e) A deposit made under this section that has remained unclaimed by the depositor for more than seven

(7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

A. In City Service Charge

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	67.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65

B. Outside City Service Charge

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	186.97

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

Classification of Customer	In City	Outside City
----------------------------	---------	--------------

Residential User - Single Family Dwelling \$16.61 \$20.35

Residential User - Multi Family Dwelling To be estimated by City

- 1) Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.
- 2) The Utility shall retain documentation supporting its estimates and the billings based thereon. Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.

3. Industrial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. Other Industrial User Charges

- 1) Monthly billing charge - per bill Inside City \$1.65 Outside City \$1.65
- 2) **Excess Strength of Wastes Surcharge** - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

C. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to such users located outside the City.

4. Commercial User Charges

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charges	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

1. Monthly Billing Charge - per bill Inside City 1.65 Outside City 1.65

2. Excess Strength

- a. In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- b. Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b)

5. Institutional User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

6. Government User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measure in accordance with the following charges for this classification of service:

	Inside City	Outside City
Cents per 100 cu. ft.		
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Governmental User Charges

1. Monthly Billing Charge - per bill Inside City 1.65 Outside City 1.65

2. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.)

Treatment 67.44

b) Variable Charge (cents per 100 cu. ft.)

A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) Flat Charge.

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.

d) Excess Strength of Waste Surcharge.

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e) Capital Charge.

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) Capital Surcharge.

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract applicable to its users customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1), Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

8. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Wa Hauler to City's plant - \$93.81 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or a fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Wa Hauler Manifest", the form for which will be provided by the City.

All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

9. Liability for Surcharge.

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- a) Biochemical oxygen demand of 300 milligrams per liter.
- b) Chemical oxygen demand of 600 milligrams per liter.
- c) Suspended solids content of 300 milligrams per liter.
- d) Phosphorus content of 10 milligrams per liter.
- e) Ammonia content of 25 milligrams per liter.

10. Computation of Surcharge.

The surcharge shall be determined as follows:

The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and multiplying this product by the difference between (a) the concentrations measured in milligrams per liter of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage a (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

11. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges

- Type 1 Evaluation \$104.33
- Type 2 Evaluation (includes metals) 153.58

Evaluation Charges - Per Occurrence

- Type 1 Evaluation \$313.00
- Type 2 Evaluation (includes metals) 460.75
- Grab Compliance (FOG) 76.00
- Composite Compliance 190.00*

*Plus applicable laboratory testing charges.

12. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewage services and/or stormwater services, and applied penalties, record fees and service charges may be made a lien upon the property when the delinquent party is property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-36-9-23-32 and 36-9-23-33.

13. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewage service penalties of 10% of the delinquent fees and reasonable attorney's fees in a civil action, and in foreclosure liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

14. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Director City Utilities and such deputies as Director, with the approval of the Board of Public Works, may appointed for such purposes. Whenever said Director or any such deputy shall deem it appropriate charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32 and the Sewer Utility Rules and Regulations, or pursuant to ordinance adopted in accordance with I.C. Sub Section 36-1-6-9.

15. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules c Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be subject a fine of up to \$2,500.00 per day as set out at Section 10.99 of the City of Fort Wayne Code Ordinances or as otherwise provided by Indiana Law. Each day that such violation(s) or noncompliance continues shall constitute a separate offense.

USERS OF THE SEWAGE WORKS, OWNERS OF PROPERTY SERVED OR TO BE SERVED BY T SEWAGE WORKS, AND OTHER INTERESTED PERSONS ARE INVITED TO APPEAR AND BE HEARD CONCERNING THE PROPOSED FEES. THE HEARING MAY BE ADJOURNED FROM TIME TO TIME WITHOUT FURTHER PUBLISHED NOTICE. AFTER THE HEARING, THE COMMON COUNCIL MAY ADOPT THE SCHEDULE OF FEES, EITHER AS ORIGINALLY INTRODUCED OR AS MODIFIED.

"REASONABLE ACCOMMODATIONS" FOR PERSONS WITH A KNOWN DISABLING CONDITION WILL BE CONSIDERED IN ACCORDANCE WITH A STATE AND FEDERAL LAW. ANY PERSON

AMENDED NOTICE OF PROPOSED CHANGES OR READJUSTMENTS OF FEES CHARGED BY THE CITY OF FORT WAYNE WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS")
 DUE TO SCRIBENERS OR MATHEMATICAL ERRORS IN THE ORIGINAL PUBLICATION OF A NOTICE OF PUBLIC HEARING BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, ON TUESDAY, MAY 13, 1997 AT 5:30 PM (LOCAL TIME) IN THE COMMON COUNCIL CONFERENCE ROOM, ROOM 128, CITY-COUNTY BUILDING, ONE MAIN STREET, FORT WAYNE, INDIANA. THIS AMENDED NOTICE IS HEREBY PUBLISHED CONCERNING CHANGES OR READJUSTMENTS IN FEES CHARGED BY THE CITY OF WATER POLLUTION CONTROL UTILITY ("SEWAGE WORKS") PROPOSED BY BILL NO. G-97-04-10 INTRODUCED AT THE APRIL 22, 1997 MEETING OF THE COMMON COUNCIL. THE PROPOSED SCHEDULE OF FEES IS AS FOLLOWS:

(1. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

- Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.
- The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.
- The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:
 - Has been conveyed or transferred to another person; or
 - No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

- If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.
- A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

2. Residential User Charges.

a. In City Service Charge

Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	67.44
Conveyance, Collection, Billing	52.54
Capital	29.59
Total User Charge	149.57

2. In City Billing Charge

Residential users inside the City shall be billed a monthly billing fee of \$1.65

b. Outside City Service Charge

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	84.30
Conveyance, Collection, Billing	65.68
Capital	36.99
Total User Charge	186.97

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.65.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

c. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

Classification of Customer

	In City	Outside City
Residential User - Single Family Dwelling	\$15.61	\$20.35
Residential User - Multi Family Dwelling	To be estimated by City	To be estimated by City
Monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. A 25% surcharge shall apply to the rates charged to users outside the City.		
The Utility shall retain documentation supporting its estimates and the billings based thereon.		
Such determination of billings may be reviewed and adjusted by the Utility at any time. However, no adjustment, additional charge or refund may be made more than six (6) years after the due date of the billing sought to be adjusted.		

d. Industrial User Charges

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

Other Industrial User Charges

Monthly billing charge - per bill
 Excess Strength of Wastes Surcharge - in the event an industrial user contributes waste having strength of sewage in excess of domestic waste characteristics as herein defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to such users located outside the City.

e. Commercial User Charges

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charges	149.57	186.97

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

f. Other Commercial Charges

- Monthly Billing Charge - per bill
 Inside City 1.65
 Outside City 1.65
- Excess Strength
 In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users, except as set out in the following paragraph.
- Restaurants - Commercial users primarily engaged in the business of preparing and selling cooked food items and beverages shall pay an extra-strength surcharge of 36.76 cents per one hundred cubic feet in lieu of those scheduled surcharges otherwise set forth herein. For the purposes of this Chapter, a user qualified to hold a supplemental retailer's permit under Indiana Code 7.1-3-16.5-2(a) or (b)

g. Institutional User Charges

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

6. Government User Charges.

a. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	Inside City	Outside City
Treatment	67.44	84.30
Conveyance, Collection, Billing	52.54	65.68
Capital	29.59	36.99
Total User Charge	149.57	186.97

b. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

c. Other Governmental User Charges

	Inside City	Outside City
1. Monthly Billing Charge - per bill	1.65	1.65
2. Excess Strength		

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

7. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a. Volume Charge (cents per 100 cu. ft.)

- Treatment 67.44
- Variable Charge (cents per 100 cu. ft.)
 A variable charge for conveyance and collection costs attributable to the portion of the conveyance system and operating costs associated therewith available to the contract customer shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.
- Flat Charge
 In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.65 and an appropriate monthly surveillance charge based on the type of testing necessary according to the contractee's customer base.
- Excess Strength of Waste Surcharge
 In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids - (SS)	\$6.83
Biochemical Oxygen Demand - (BOD)	14.17
Phosphorus - (P)	96.17
Ammonia - (NH-3)	20.74

e. Capital Charge

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f. Capital Surcharge

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g. Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract applicable to its users customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204 (b)(1), Public Law 92-500 as amended and supplemented, and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35-905-8, 35-928-1 and 35-928-2 and 35-935-13.

8. Bulk Waste Charges.

Industrial - for all industrial waste suitable for disposal which has been delivered by an approved Water Hauler to City's plant - \$93.81 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.
 Domestic - for all domestic waste delivered to City's plant by customer's truck or tank - \$56.24 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or any fraction thereof.

All bulk waste loads delivered to the Water Pollution Control Plant shall be accompanied by a "Waste Hauler Manifest", the form for which will be provided by the City.
 All bulk waste haulers shall also be assessed a billing charge of \$1.65 per bill.

9. Liability for Surcharge.

Each user discharging wastes into the collection system shall be subject to a strength-of-wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than:

- Biochemical oxygen demand of 300 milligrams per liter.
- Chemical oxygen demand of 600 milligrams per liter.
- Suspended solids content of 300 milligrams per liter.
- Phosphorus content of 10 milligrams per liter.
- Ammonia content of 25 milligrams per liter.

10. Computation of Surcharge.

The surcharge shall be determined as follows:
 The excess pounds of BOD or COD (whichever results in the higher charge) suspended solids, phosphorus and ammonia will each be computed by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.0062321 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter, of the BOD (or COD), suspended solids, phosphorus and ammonia respectively in the user's sewage and (b) the allowed concentrations set out in Section 51.076. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. In event COD measurement is used, as hereinbefore provided, 50% of the excess pounds measured will be used to compute the equivalent BOD charge.

11. Continuing Surveillance Sampling/Waste Evaluation Charges.

All users discharging wastes into the system, requiring continuing surveillance sampling and waste evaluation shall be subject to the following fixed charges to cover the costs of such services per discharge point.

Monthly Evaluation Charges	
Type 1 Evaluation	\$104.33
Type 2 Evaluation (includes metals)	153.58
Evaluation Charges - Per Occurrence	
Type 1 Evaluation	\$313.00
Type 2 Evaluation (includes metals)	460.75
Grab Compliance (FOG)	76.00
Composite Compliance	190.00*
*Plus applicable laboratory testing charges.	

12. Delinquent Fees and Penalties as Liens; Duplicates - Collection.

Delinquent charges for sewage services and/or stormwater services, and applied penalties, recording fees and service charges may be made a lien upon the property when the delinquent party is the property owner and may be collected in accordance with the provisions of Indiana Code 36-9-23-31, 36-9-23-32 and 36-9-23-33.

13. Collection Through Court Actions.

In addition to the foregoing remedies, the City may recover the amount of the charges for sewage services, penalties of 10% of the delinquent fees and reasonable attorney's fees in a civil action, and may foreclosure liens established by this Chapter in accordance with Indiana Code 36-9-23-34.

14. Enforcement.

Those provisions of this Chapter not specifically dealt with elsewhere shall be enforced by the Director of City Utilities and such deputies as Director, with the approval of the Board of Public Works, may be appointed for such purposes. Whenever said Director or any such deputy shall deem it appropriate to charge any person with a violation(s) of this Chapter, he shall issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1) and the Sewer Utility Rules and Regulations, or pursuant to ordinance adopted in accordance with I.C. Sub Section 36-1-6-9.

15. Penalty for Violations.

Any person who violates or fails to comply with any provision of this Chapter or of the Rules and Regulations of the Board of Public Works or Administrative Orders pertaining thereto, shall be subject to a fine of up to \$2,500.00 per day, as set out at Section 10.99 of the City of Fort Wayne Code of Ordinances or as otherwise provided by Indiana law. Each day that such violation(s) is or are committed...

Notice is hereby given that on the 1st day of July, 1997, the Common Council of the City of Fort Wayne, Indiana, in a Special Session did pass the following Bill No. G-97-04-10 (as amended) (as amended) General Ordinance No. G-07-97 to-wit:

BILL NO. G-97-04-10 (AS AMENDED), AS AMENDED, AS AMENDED)

GENERAL ORDINANCE NO. G-07-97
AN ORDINANCE AMENDING CHAPTER 51
OF THE CITY OF FORT WAYNE CODE OF LAWS

WHEREAS, the City of Fort Wayne has several areas within its borders which are not currently served by a public sewer and wishes to provide for both the orderly residential development and the proper disposal of sewage from residential properties; and

WHEREAS, the City of Fort Wayne wishes to provide for a basic threshold level of knowledge and registration for all installers of septic systems to insure the proper construction, installation and inspection of septic systems on real estate adequately suited for this type of disposal of sewage, based on current technology and state regulations; and

WHEREAS, City Utilities has not, in the past, requested deposits based on sewage consumption despite Indiana Code 36-9-23-28 specifically providing for such deposits in order to protect the financial stability of the sewer utility.

WHEREAS, pursuant to Indiana Code 36-9-23-25, the Common Council of the City of Fort Wayne has enacted a User Charge System and a Sewer Use Ordinance as contained in Chapter 51 of the Fort Wayne Code of Ordinances;

WHEREAS, State law (I.C. 8-1.5-38) states that rates and charges of municipally-owned utilities are unlawful if too low to produce income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service; and,

WHEREAS, a Sewer Task Force was created by the Mayor of the City of Fort Wayne for the purpose of recommending a plan of improvement to the City's municipal sewer works; and,

WHEREAS, the Sewer Task Force has on October 21, 1996, presented a nine point plan of improvement including increased maintenance and evaluation of the City's sewer system and a capital improvements plan requiring the investment of \$9 million per year to address combined sewer capacity issues; and,

WHEREAS, the Mayor of the City of Fort Wayne has accepted and endorsed the recommendations of the Sewer Task Force; and, WHEREAS, the City of Fort Wayne engaged the services of Municipal Consultants to review the current financial position of the Water Pollution Control Utility in light of the above legal requirements and Task Force recommendations; and,

WHEREAS, Municipal Consultants prepared and submitted to the City of Fort Wayne the results of the above-mentioned review and has made recommendations therein regarding adjustments to the current Water Pollution Control Utility rates and charges; said report being dated March 21, 1997; and,

WHEREAS, upon review of said report and recommendations, the Board of Public Works of the City of Fort Wayne, in accordance with (I.C. 36-9-23-25) as amended, and Section 51.079 of the Fort Wayne Code of Ordinances, found on April 9, 1997 that existing rates and charges for the use of and services rendered by the Water Pollution Control Utility do not provide sufficient revenue to:

(a) Pay all expenses incidental to the operation of the works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals, and interest charges on bonds or other obligations; and,

(b) Provide the sinking fund required by section 21, (I.C. 36-9-23-21) of this chapter for proposed debt; and,

(c) Provide adequate money for improving and replacing the works; specifically those projects recommended by the Sewer Task Force and endorsed by the Mayor; and,

WHEREAS, on said date the Board of Public Works found it in the best interest of the Fort Wayne Water Pollution Utility, in order to provide income sufficient to maintain the utility property in a sound physical and financial condition and to render adequate and efficient service to its users while implementing the recommendations of the Sewer Task Force, that the sewage rates charged to all user classes be amended according to the recommendations of Municipal Consultants, Inc. dated March 21, 1997, and further recommended the Common Council of the City of Fort Wayne otherwise amend Chapter 51 of the City of Fort Wayne Code of Ordinances in order to more equitably charge all Sewer Utility users.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the following sections or subsections of Chapter 51 of the City of Fort Wayne Code of Laws be amended, added or deleted as follows:

Sec. 51.001 Definitions

industrial wastes shall be those set forth in Code or Federal Regulations, 40 CFR 136 or approved EPA methods.

d) CHARGES COLLECTED - All waste analysis charges, collected under Section 51.040-a) and b) above shall be recorded as credits to the operating costs of the Water Pollution Control Plant and a quarterly accounting thereof shall be forwarded to the Superintendent. All such charges are to be used to defray the operation and maintenance expenses incurred by the Water Pollution Control Plant in performing said analyses.

PRIVATE SEWAGE DISPOSAL

This subchapter (51.050-51.059) applies to matters under the jurisdiction of the State and Allen County Board of Health.

Sec. 51.050 Definitions.

(A) The words and phrases used in this subchapter (51.050-51.055) are herein defined, and for the purpose of this subchapter only, shall be construed as follows, except when otherwise expressly provided.

(1) State Definitions

All definitions set forth in 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(2) Board

"Board" shall mean the Fort Wayne-Allen County Board of Public Health, Fort Wayne, Allen County, Indiana.

(3) Building

"Building" shall mean a structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy of persons, fixtures or personal property, and from which there emanates any sewage.

(4) Commercial

"Commercial" shall mean any building which is not a one or two family dwelling.

(5) Department

"Department" shall mean the Fort Wayne-Allen County Department of Public Health, Fort Wayne, Allen County, Indiana, and/or its employees.

(6) Environmental Health Specialist

"Environmental Health Specialist" means an individual as defined in I.C. 25-32-1-1(B)

(7) Health Commissioner

"Health Commissioner" shall mean the Director of Public Health for the Fort Wayne-Allen County Department of Public Health for Fort Wayne, Allen County, Indiana, (designated as "Health Officer" in the state rules and regulations) and/or his/her authorized representative.

(8) Installer

"Installer" shall mean any person who constructs, installs, replaces, alters, modifies or repairs any residential or commercial sewage disposal system subject to the provisions of this ordinance, other than one which serves his/her/its building. In the event that the person is any association of two or more people, then said association shall designate one individual who shall be designated as the installer and responsible for compliance with all provisions hereunder.

(9) Permit

"Permit" shall mean a certificate of a size and style approved by the Health Commissioner.

(10) Permittee

"Permittee" shall mean the person who is the owner of the real estate, his/her/its authorized representative, who is responsible for the application of a construction permit and/or operating permit and who shall be responsible for the acceptance of notices at the address listed on the permit applications. (11)

(11) Public Sewer

"Public Sewer" shall mean a sewer to the use of which all owners of abutting property have equal rights and is controlled and maintained by the City or other public authority.

(12) Residential

"Residential" shall mean a building used as a one or two-family dwelling.

(13) Sewage

"Sewage" shall mean the water-carried wastes from residences, business buildings, institutions and industrial establishments, singularly or in any combination, together with such ground, surface and storm waters as may be present.

(14) Soils Scientist

"Soils Scientist" means an individual who is a Specialist or Classifier, registered with the American Registry or Certified Professionals in Aeronomic Cross

c. If the number of bedrooms in a dwelling are more than five
1,500 gallon tank plus 150 gallons x the number of bedrooms over five

(E) Final Grade

All distribution boxes shall be extended full size to ground level or final grade.

(F) Access Openings

All septic tanks shall have at least one (1) access opening of at least ten (10) inches in diameter, for each compartment in said tank for inspection and cleaning purposes. All such access opening shall be extended to ground level and shall be fitted with safety secured, gas tight covers.

(G) Abandoned Septic tanks

Abandoned septic tanks shall be filled with earth, sand or gravel or shall be removed.

(H) Inspection Pipe

Each private sewage disposal system shall have at least one suitable inspection pipe, which shall be accessible to the Health Commissioner at all reasonable times for the inspection or sampling of effluent. If an inspection pipe does not exist, is not in good repair or is not accessible, such fact shall constitute a defect in the system under 51.051 (E).

(1) The inspection pipe shall be installed at the far end of one of the absorption lines, or just beyond the last equipment or device in any other treatment system.

(2) The inspection pipe shall be not less than an eight (8) inch riser of Schedule 40, SDR 22 or SDR 26 PVC pipe or vitrified clay pipe extending above the surface of the ground with a safely secured easily removable cap or cover and with its lower end connected and arranged to permit the collection, by dipping, of an effluent sample.

Sec. 51.053 Construction Permit.

(A) Construction Permit required

An owner or permittee shall first obtain a construction permit from the Health Commissioner prior to the commencement of any excavation, construction, alteration, repair, modification or addition to any existing or new private sewage disposal system.

(B) Permit to be posted

No person shall perform any work on a private sewage disposal system project unless a valid construction permit is first obtained and is properly posted in a conspicuous place at or near the building where the private sewage disposal system is to be constructed. The permit shall be plainly visible from the public thoroughfare serving the building until the project is completed.

(C) Application for Permit

The application for such permit shall be submitted to the Health Commissioner on a form provided by the Health Commissioner and shall be supplemented by any plans, specification and other information deemed necessary by the Health Commissioner or as required by 410 IAC 6-8.1-48.

(D) Permit Fees

Prior to the issuance of any permit, each owner/permittee shall first tender to the Treasurer of Allen County, Indiana, a fee or fees, which shall be deposited into the City-County Health Fund, for each system being constructed, modified, altered or repaired in accordance with the following schedule.

(1) New construction-\$75.00

(2) Alteration, modification or repair of existing system-\$50.00

(3) Revision of existing permit prior to construction-\$20.00

(E) Term and Renewal

(E) Term and Renewal

A construction permit shall be valid for one (1) year from the date of issuance, and may be renewed for up to an additional six (6) months upon application. If the permit is renewed, the permittee shall comply with any changes in the rules, standards or requirements which may have come into effect subsequent to the original date of issuance. The construction permit is not transferable.

Sec. 51.054 Installers Registration.

(A) Registration Requirements

Except for a person working on his/her/its own private sewage disposal system which serves the dwelling in which he/she/it resides, no person shall construct, install, replace, alter, modify or repair any private sewage disposal system unless that person has first registered with the Department as an installer. Persons required to be registered shall be given a grace period of up to six (6) months after the effective date of this Ordinance in which to register with the Department. Application for registration shall be on forms provided by the Department.

(B) Conditions for Registration

cordance with procedures set forth in 40 CFR 136.

j) "CHEMICAL OXYGEN DEMAND (COD)" - a measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.

m) "COMPLIANCE SAMPLE" - a sample taken of a User's effluent approximately thirty (30) days after a violation of this Chapter, the User's permit or the Federal Pretreatment Standards and Regulations has been discovered or reported. The User shall be billed for any Compliance Sample taken.

n) "COMPOSITE SAMPLE" - the sample resulting from the combination of discrete wastewater samples taken at selected intervals while the discharge rate is at or above normal based on an increment of either flow or time. Time intervals between discrete samples not to exceed 2 hours. The total duration of collection shall not exceed 24 hours.

aa) "OPERATION AND MAINTENANCE COSTS" - all costs direct and indirect, other than debt services including replacement costs as defined in Section 51.001 (ii), necessary to insure adequate wastewater treatment on a continuing basis conforming with federal, state or local requirements and to insure long-term facilities management.

ff) "RANDOM SAMPLE" - A sample taken at no charge to the User, at the City's discretion of effluent produced by any User.

yy) "SUSPENDED SOLIDS" - solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration is expressed in milligrams per liter. Quantitative determinations are made in accordance with procedures set forth 40 CFR 136.

ccc) "WASTE SURVEILLANCE CHARGE" - a monthly charge collected from users, qualifying as industrial or commercial class users, to defray the cost of evaluating that user's waste by metering, sampling, laboratory analysis and/or other methods deemed necessary. Said charges are set forth in Article VII and are subject to review annually as provided in Section 51.079.

Sec. 51.015. Requirements for Connection to Public Sewers.

g) City Utilities shall have the authority to require an owner of real property to disconnect any downspouts, yard drains or other drains which carry the runoff of natural precipitation from a building sewer which drains into a sanitary sewer or in areas served by combined sewers where City Utilities determines the additional load placed on the system has been found to be detrimental to properties in that area. Property owners shall have thirty (30) days after notice thereof to comply with any such requirement. Sec. 51.017 of this Chapter.

Section 51.017 Connections to Sewerage System by Certain Properties Outside Corporate Limits.

Notwithstanding the provisions of Sec. 51.016, the Board of Public Works shall have the authority to permit a property located outside the corporate limits of the City to connect to an existing sanitary sewer which is part of the City's sewerage system, when the property abuts, adjoins or is immediately contiguous to the street, alley or easement in which such sewer is located and provided the property owner or occupant has complied with the requirements prescribed by Sec. 51.015 of this Chapter.

Sec. 51.033. Prohibited Discharges and Limitations.

Except as hereinbefore provided, no person shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes or waters:

a) Any liquid or vapor having a temperature greater than 140 degrees F (60 degrees C), or any wastewater which will cause the WPC Plant's influent to exceed 104 degrees F (40 degrees C).

b) Any waters or wastes from industrial sources containing more than 100 milligrams per liter of total oil and grease (TOG). Acceptable limits for animal-vegetable based fats, oils and grease shall be determined by the Board of Public Works and set out in the Sewer Utility Rules and Regulations. Said maximum limits shall be calculated and set at an amount shown not to cause interference or obstruction in the collection system and/or sewerage works, and shall be re-evaluated and adjusted as necessary to protect the integrity of the sewer utility.

d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers for their maintenance or repair.

e) Any garbage that has not been properly pretreated and reduced per Sec. 51.00(u).

Sec. 51.035. Submission of Data on Industrial Waste.

c) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall first notify the Water Pollution Control

(B) Public Sewer Available

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial lot line, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

(C) Public Sewer Not Available

All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

(D) Construction of Privy

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner.

(E) Correction of Defects

Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the sanctions set forth in 51.059 subject, however, to the hearing provisions of 51.058.

(F) Adaptation of Residential Systems

Whenever there is any alteration of the structure or change in the use or occupancy of a residential building that would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

(G) Adaptation of Commercial System

Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens, or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

Sec. 51.052 Construction Requirements of Private Sewage Disposal Systems.

(A) Indiana State Department of Health Requirements

All rules and regulations of 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) "Lot Dimensions"

(1) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet and suitable soils and topography to permit compliance with this chapter.

(2) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated severe for septic tank absorption fields by the U.S. Department of Agriculture Soil Conservation Service shall contain a minimum of two (2.0) acres or 87,120 square feet and suitable topography to permit compliance with this chapter.

(3) A permittee whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County Indiana, and recorded prior to the effective date of this ordinance as set forth in 51.059 (1) shall not be prohibited from the construction, installation and eventual operation of a residential sewage disposal system solely as a result of his/her/its lot dimensions being less than those set forth above in (1) and (2) provided that he/she/it needs all other requirements of this ordinance.

(C) "On site Evaluation"

At least one boring from from the submitted septic disposal system location shall be done with a soil auger. A second sample from the submitted septic disposal system location, and any additional confirmation samples, may be taken with a push probe.

(D) requirements for Septic Tanks

(1) Residential septic tanks shall have the following number of gallons:

and regulations. These regulations, if they are feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for reexamination shall be afforded to an applicant upon request but no more frequently than once per month.

(C) Seminar

At the request of the Health Commissioner, but not more than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Department of the Indiana State Department of Health.

(D) Expiration

Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15 of each succeeding year.

(E) Annual Fee

For a period of six (6) months after the effective date of this Ordinance, registration under this section shall be without fee. After that date, an annual registration fee of \$40.00 will be charged which shall be paid not later than January 31 of each year.

(F) Notice of Violation

Whenever the Health Commissioner determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Commissioner shall give written notice in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

(1) A statement of the alleged violation

(2) An order allowing a reasonable time for the performance of any act required to correct the violation.

(G) If the violation is not corrected within the designated time, the Health Commissioner may suspend or revoke the installer's registration subject to the provisions contained in 51.058 (B) (C), or (D).

(1) If the registration is suspended, the installer may be reinstated by the Health Commissioner upon correction of all violations.

(2) If the registration is revoked, the Health Commissioner shall require, at a minimum, that the installer: 1) be retested; 2) pay the registration fee; and, 3) correct all outstanding violation to the satisfaction of the Health Commissioner prior to being re-registered.

(H) Not Registered

Any person constructing, installing, replacing, altering or repairing any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Ordinance and shall be subject to all penalties set forth in Sub section 51.059.

Sec. 51.055 Inspection.

(A) Commencement of Construction

Upon issuance of a construction permit under Sub section 51.053(A), the permittee may commence installation and construction of the private sewage disposal system. The Health Commissioner may inspect the work at any state of construction.

(B) Inspection

Upon substantial completion of the installation, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

(1) No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance and an operation permit has been issued.

(2) The inspection shall be made within two (2) working days of the receipt of notice by the Health Commissioner that the system is ready for inspection.

(C) Issuance of Operation Permit

If the system meets all requirements and is in compliance with the law, the 15 Health Commissioner shall issue an Operating Permit.

(D) Operating Permit Required

It shall be unlawful for any person to use or operate a private sewage disposal system unless said person possesses a valid operating permit issued by the Health Commissioner.

(E) Valid Period

The Operating Permit shall be valid until there is a change in the use associated with the system. The issuance date shall appear on the Permit. The operation permit is not transferable.

(F) Application for Permit

The application for an operation permit shall be made to the Health Commissioner on forms provided by the Health Commissioner.

missionner has determined that the permittee has complied with all applicable provisions of this ordinance, the related state rules and regulations and the appropriate permit fee.

renewal

the duty of the permittee is the duty of the permittee.

51.056 Maintenance And Sampling.

Sanitary Condition Mandatory

A private sewage disposal system shall be constructed and maintained so that the effluent leaving the permittee's system shall be sanitary.

Inspection and Sampling

The Health Commissioner shall be permitted to enter any property at any reasonable time to inspect and take samples from a private sewage disposal system. If said test results should indicate a residential or commercial sewage disposal system failure, failure shall constitute a violation of Sub section 51(E).

51.057 Economic Hardship.

Economic Hardship

In the event an owner/permittee is unable to comply with the provisions of 51.051(B) due to the economic hardship that might be imposed, then the Health Commissioner may, upon application and proof of inability to pay the cost of compliance, extend the period within which said owner/permittee be required to make the hook-up provided the owner/permittee has an existing private sewage disposal system which is operating properly.

51.058 Denial. Suspension. Revocation.

(1) Denial and Approval of Permit

In the event the Health Commissioner denies that the application for the Construction and/or Operating Permit does not meet the standards set forth in this chapter, then the Health Commissioner shall be required to notify the permittee of such denial in writing, within thirty (30) days of the original application, stating the specific reasons for the denial of the permit.

Failure of the Health Commissioner to issue a denial of a permit and/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within thirty (30) days from the date of application of the Construction Permit shall be construed as an approval of the Construction Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Construction Permit.

Failure of the Health Commissioner to issue a denial of an Operating Permit and/or to issue specific written directions regarding corrective actions that need to be taken to obtain the permit within ten (10) days from the date of application of the Operating Permit shall be construed as an approval of the Operating Permit. In the event the Health Commissioner issues written directives regarding corrective actions, then the permittee and/or his agent shall have a reasonable amount of time to address the items set forth in the directives in order to be able to obtain the Operating Permit.

Suspension of Permit/Registration

The Health Commissioner may order the suspension of a Construction Permit or Operation Permit or in-r registration. The Health Commissioner may suspend the suspension of a permit or registration for the following reasons:

Failure to meet any of the standards of any of the provisions of this Ordinance or violations of any provisions of this Ordinance.

Interference with the Health Commissioner in performance of his/her duties. Interference shall be defined as the process of obstructing, hampering or blocking the Health Commissioner in the performance of his/her duties.

At the request of the permittee or installer, a hearing shall be afforded him/her within twenty-four (24) hours of the issuance of the written suspension order. Said hearing shall be conducted as set forth in 51.058(E).

Revocation of Permit/Registration

A permit and/or registration issued hereunder may be revoked by the Health Commissioner in the event of the willful or continued violation of any provision of this Ordinance. No such revocation shall be made by the Health Commissioner except after a hearing held pursuant to 51.058(E) upon at least ten (10) days written notice to the owner/permittee/installer of the time, place and nature of said hearing. Said notice of hearing shall be delivered upon the owner/permittee/installer by leave or mailing (certified mail) the notice to the address listed by the owner/permittee/installer at the address on the permit, application or in-r registration application.

Immediate Revocation

In the event any of the other provisions of this ordinance, whenever the Health Commissioner finds any violation or other conditions, which, in his/her opinion

of the property may request permission from the City to install at the user's expense either an approved meter or meters to determine the quantity of water that cannot enter the sewerage system or an approved sewage-measuring device or devices to determine the volume of sewage that actually enters the sewerage system. In any case, the service charge shall be based on the quantity of water that can or actually does enter the public sewers but in no case shall it be less than the minimum charge for the class of user served. Plans and specifications for all such meters shall be submitted to the Superintendent of the Water Pollution Control Plant and approved prior to installation.

Sec. 51.068.5. Deposit to ensure payment of sewer fees - Refunds - Forfeitures - Uses.

(a) Pursuant to Indiana Code 36-9-23-28, City Utilities may require the owner, lessee, or user of property served by the Utility to pay a deposit to ensure payment of sewer fees.

(b) The deposit required shall equal the estimated average payment due from the property served by the Utility for a three (3) month period. Deposits shall be retained in a separate fund.

(c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

(1) Has been conveyed or transferred to another person; or

(2) No longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

(d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, the deposit and all accrued interest is forfeited. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner set out in Sec. 51.099 and Sec. 51.100 herein. A deposit may be used to satisfy all or part of any judgment awarded the municipality under this chapter.

(e) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of City Utilities.

Sec. 51.069. Residential User Charges.

A. In City Service Charge

(1) In City Charges for services rendered to residents within the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	60.58
Conveyance, Collection, Billing	51.11
Capital	28.98

Total User Charge 140.67

(2) In City Billing Charge

Residential users inside the City shall be billed a monthly fee of \$1.61.

B. Outside City Service Charge

1. Outside City

Charges for services rendered to residents outside the corporate boundaries of the City of Fort Wayne shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service:

Cents per 100 cu. ft.	
Treatment	75.73
Conveyance, Collection, Billing	63.89
Capital	36.23

Total User Charge 175.85

2. Outside City Billing Charge

Residential users residing outside the corporate boundaries of Fort Wayne shall be billed a monthly billing fee of \$1.61.

Hereinafter "inside City" or "outside City" shall be read to distinguish users located within or outside the corporate boundaries of the City of Fort Wayne.

C. User Flat Charges

In the event that any user in this classification is not a metered water customer, there shall be imposed flat charge rates as follows:

Classification of Customer	Monthly Flat Charge (1)
Residential User-Single Family Dwelling; In City;	\$15.68; Outside City \$19.20

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as herein defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

Sec. 51.073. Government User Charges.

A. Service Charge

Charges for services rendered shall be based on metered water consumption, unless otherwise measured, in accordance with the following charges for this classification of service.

Cents per 100 cu. ft.; Inside City; Treatment-60.58; Outside City 75.73
Conveyance, Collection Billing; Inside City-51.11; Outside City 63.89
Capital; Inside City-28.98; Outside City 36.23

Total User Charge; Inside City-140.67; Outside City 175.85

B. User Flat Charges

In the event any user in this classification is not a metered water customer, there shall be imposed a flat charge rate estimated by the City. A 25% surcharge shall apply to the rate charged to users located outside the City.

C. Other Commercial Charges

1. Monthly Billing Charge-per bill; Inside City 1.61; Outside City 1.61

2. Excess Strength

In the event any user under this classification contributes waste having a strength of sewage in excess of domestic waste characteristics as hereinbefore defined, such user will be charged for surveillance and surcharges as set forth elsewhere herein for Industrial Users.

Sec. 51.074 Contract Customers-Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

a) Volume Charge (cents per 100 cu. ft.)

Treatment 60.58

b) Variable Charge (cents per 100 cu. ft.).

A variable charge for conveyance and collection costs attributable to each contract customer's portion of the conveyance system and operating costs associated therewith shall be computed by the City and added to the treatment cost to arrive at the contractee's total metered rate.

c) Flat Charge.

In addition to the foregoing charge based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of \$1.61 and an appropriate monthly surveillance charge, as set out in Sec. 51.078 herein, based on the type of testing necessary according to the contractee's customer base.

d) Excess Strength of Waste Surcharge.

In the event a contract customer user contributes waste having a toxic strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charges will be in effect for all waste found to be in excess of limitations:

	Cents Per Pound
Suspended Solids-(SS)	6.83
Biochemical Oxygen Demand-(BOD)	14.17
Phosphorus - (P)	96.17
Ammonia- (NH-3)	20.74

e) Capital Charge.

Where a contract calls for the payment of a capital charge, such shall be billed to the contract customer (Allen County Institutional Power Plant).

f) Capital Surcharge.

In the event a contract customer delivers sewage for treatment to the City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to a capital charge, computed at the rate per 100 cu. ft. in effect for outside the City customers set out elsewhere herein, times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

g) Other Provisions.

In the event sewage received pursuant to any contract entered into under this the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that the contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations.

cordance with procedures set forth in 40 CFR 136.

j) "CHEMICAL OXYGEN DEMAND (COD)" - a measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.

m) "COMPLIANCE SAMPLE" - a sample taken of a User's effluent approximately thirty (30) days after a violation of this Chapter, the User's permit or the Federal Pretreatment Standards and Regulations has been discovered or reported. The User shall be billed for any Compliance Sample taken.

n) "COMPOSITE SAMPLE" - the sample resulting from the combination of discrete wastewater samples taken at selected intervals while the discharge rate is at or above normal based on an increment of either flow or time. Time intervals between discrete samples not to exceed 2 hours. The total duration of collection shall not exceed 24 hours.

aa) "OPERATION AND MAINTENANCE COSTS" - all costs direct and indirect, other than debt services including replacement costs as defined in Section 51.001 (ii), necessary to insure adequate wastewater treatment on a continuing basis conforming with federal, state or local requirements and to insure long-term facilities management.

ff) "RANDOM SAMPLE" - A sample taken at no charge to the User, at the City's discretion of effluent produced by any User.

yy) "SUSPENDED SOLIDS" - solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration is expressed in milligrams per liter. Quantitative determinations are made in accordance with procedures set forth 40 CFR 136.

ccc) "WASTE SURVEILLANCE CHARGE" - a monthly charge collected from users, qualifying as industrial or commercial class users, to defray the cost of evaluating that user's waste by metering, sampling, laboratory analysis and/or other methods deemed necessary. Said charges are set forth in Article VII and are subject to review annually as provided in Section 51.079.

Sec. 51.015. Requirements for Connection to Public Sewers.

g) City Utilities shall have the authority to require an owner of real property to disconnect any downspouts, yard drains or other drains which carry the runoff of natural precipitation from a building sewer which drains into a sanitary sewer, or in areas served by combined sewers where City Utilities determines the additional load placed on the system has been found to be detrimental to properties in that area. Property owners shall have thirty (30) days after notice thereof to comply with any such requirement. Sec. 51.017 of this Chapter.

Section 51.017 Connections to Sewerage System by Certain Properties Outside Corporate Limits.

Notwithstanding the provisions of Sec. 51.016, the Board of Public Works shall have the authority to permit a property located outside the corporate limits of the City to connect to an existing sanitary sewer which is part of the City's sewerage system, when the property abuts, adjoins or is immediately contiguous to the street, alley or easement in which such sewer is located and provided the property owner or occupant has complied with the requirements prescribed by Sec. 51.015 of this Chapter.

Sec. 51.033. Prohibited Discharges and Limitations.

Except as hereinbefore provided, no person shall discharge or cause or permit to be discharged into the public sewer any of the following described substances, wastes or waters:

a) Any liquid or vapor having a temperature greater than 140 degrees F (60 degrees C), or any wastewater which will cause the WPC Plant's influent to exceed 104 degrees F (40 degrees C).

b) Any waters or wastes from industrial sources containing more than 100 milligrams per liter of total oil and grease (TOG). Acceptable limits for animal-vegetable based fats, oils and grease shall be determined by the Board of Public Works and set out in the Sewer Utility Rules and Regulations. Said maximum limits shall be calculated and set at an amount shown not to cause interference or obstruction in the collection system and/or sewerage works, and shall be re-evaluated and adjusted as necessary to protect the integrity of the sewer utility.

d) Any noxious or malodorous gas or substance which either alone or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into the sewers for their maintenance or repair.

e) Any garbage that has not been properly pretreated and reduced per Sec. 51.00(u).

Sec. 51.035. Submission of Data on Industrial Waste.

c) Any person who adds, changes, modifies or proposes to change manufacturing or pretreatment processes shall notify the Water Pollution Control

by reference.

(B) Public Sewer Available

Whenever a public sewer is or becomes available within 300 feet of a residential or commercial lot lint, a direct connection shall be made to said public sewer, provided direct access is reasonably available via easement or other appropriate means. All existing septic tanks, sewage pits, outhouses, privy pits and similar sewage disposal systems or treatments facilities shall be abandoned and filled in a safe and sanitary manner. Permittee shall have ninety (90) days from the date that the public sewer becomes available to make a direct connection to the public sewer and to abandon and fill in the existing sewage disposal system.

(C) Public Sewer Not Available

All residential and commercial buildings which are not connected to a public sewer shall be connected to a private sewage disposal system which shall comply with the standards set forth herein.

(D) Construction of Privy

Sanitary vault privies constructed and maintained pursuant to Bulletin SE-11 (1986) shall be approved by the Health Commissioner.

(E) Correction of Defects

Should any defect exist or occur in any private sewage disposal system or privy which would cause the sewage disposal system or privy to fail to meet the requirements of this Chapter, then the defect shall be corrected by the owner/permittee pursuant to the time table established by the Health Commissioner. Failure to correct the defect within the time table established by the Health Commissioner shall be considered a violation of this Ordinance and shall subject the owner/permittee to the sanctions set forth in 51.059 subject, however, to the hearing provisions of 51.058.

(F) Adaptation of Residential Systems

Whenever there is any alteration of the structure or change in the use or occupancy of a residential building that would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

(G) Adaptation of Commercial System

Whenever there is any alteration of the structure or significant change in the use or occupancy of a commercial building which would affect the functioning of the existing private sewage disposal system, including the addition of bathrooms, kitchens, or other related water disposal mechanisms, then the system shall be modified, enlarged or replaced in accordance with the requirements of this chapter.

Sec. 51.052 Construction Requirements of Private Sewage Disposal Systems.

(A) Indiana State Department of Health Requirements

All rules and regulations of 410 IAC 6-8.1, Bulletin SE-11 (1986) and Bulletin SE-13 (1988), as amended from time to time, from the Indiana State Department of Health are hereby incorporated by reference.

(B) "Lot Dimensions"

(1) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated slight or moderate for septic tank absorption fields by the U.S. Department of Agricultural Soil Conservation Service, shall contain a minimum of one (1.0) acre or 43,560 square feet and suitable soils and topography to permit compliance with this chapter.

(2) Lots or tracts of real estate on which residential or commercial sewage disposal systems are to be installed and which are rated severe for septic tank absorption fields by the U.S. Department of Agricultural Soil Conservation Service shall contain a minimum of two (2.0) acres or 87,120 square feet and suitable topography to permit compliance with this chapter.

(3) A permittee whose real estate was a separate parcel for tax purposes as shown on the tax records of the Auditor of Allen County Indiana, and recorded prior to the effective date of this ordinance as set forth in 51.059 (1) shall not be prohibited from the construction, installation and eventual operation of a residential sewage disposal system solely as a result of his/hers/its lot dimensions being less than those set forth above in (1) and (2) provided that he/she/it needs all other requirements of this ordinance.

(C) "On site Evaluation"

At least one boring from from the submitted septic disposal system location shall be done with a soil auger. A second sample from the submitted septic disposal system location, and any additional confirmation samples, may be taken with a push probe.

(D) requirements for Septic Tanks

(1) Residential septic tanks shall have the following number of gallons:

and regulations, where language or reading difficulties, if feasible, due to language or reading difficulties, arrangements will be made to allow for an oral examination to assure proficiency. Opportunity for reexamination shall be afforded to an applicant upon request but no more frequently than once per month.

(C) Seminar

At the request of the Health Commissioner, but not more than once per year, a person registered under this section shall attend a seminar on sewage disposal conducted by the Department of the Indiana State Department of Health.

(D) Expiration

Registrations under this section shall expire annually on December 31. Each installer shall be required to re-register annually on or before January 15 of each succeeding year.

(E) Annual Fee

For a period of six (6) months after the effective date of this Ordinance, registration under this section shall be without fee. After that date, an annual registration fee of \$40.00 will be charged which shall be paid not later than January 31 of each year.

(F) Notice of Violation

Whenever the Health Commissioner determines that there has been a violation of any provision of this Ordinance or the applicable rules and regulations of the Indiana State Department of Health by an installer, the Health Commissioner shall give written notice in person or by certified mail, of the alleged violation to the installer. Such notice shall include the following:

(1) A statement of the alleged violation

(2) An order allowing a reasonable time for the performance of any act required to correct the violation.

(G) If the violation is not corrected within the designated time, the Health Commissioner may suspend or revoke the installer's registration subject to the provisions contained in 51.058 (B) (C), or (D).

(1) If the registration is suspended, the installer may be reinstated by the Health Commissioner upon correction of all violations.

(2) If the registration is revoked, the Health Commissioner shall require, at a minimum, that the installer: 1) be retested; 2) pay the registration fee; and, 3) correct all outstanding violation to the satisfaction of the Health Commissioner prior to being re-registered.

(H) Not Registered

Any person constructing, installing, replacing, altering or repairing any private sewage disposal system who is not registered as an installer under this section shall be deemed to be in violation of this Ordinance and shall be subject to all penalties set forth in Sub section 51.059.

Sec. 51.055 Inspection.

(A) Commencement of Construction

Upon issuance of a construction permit under Sub section 51.053(A), the permittee may commence installation and construction of the private sewage disposal system. The Health Commissioner may inspect the work at any state of construction.

(B) Inspection

Upon substantial completion of the installation, the permittee shall notify the Health Commissioner that the work is ready for inspection. No portion of the installation shall be covered until the inspection is made.

(1) No portion of the installation shall be used and, when the system serves a new building, no person shall be permitted to use the building or buildings until the inspection has been completed and the system is found to be in compliance and an operation permit has been issued.

(2) The inspection shall be made within two (2) working days of the receipt of notice by the Health Commissioner that the system is ready for inspection.

(C) Issuance of Operation Permit

If the system meets all requirements and is in compliance with the law, the 15 Health Commissioner shall issue an Operating Permit.

(D) Operating Permit Required

It shall be unlawful for any person to use or operate a private sewage disposal system unless said person possesses a valid operating permit issued by the Health Commissioner.

(E) Valid Period

The Operating Permit shall be valid until there is a change in the use associated with the system. The issuance date shall appear on the Permit. The operation permit is not transferable.

(F) Application for Permit

The application for an operation permit shall be made to the Health Commissioner on forms provided by the Health Commissioner.

recover the amount of the charges for services and
vices, penalties of 10% of the delinquent fees and
reasonable attorney's fees in a civil action, and may
foreclose liens established by this Chapter in accord-
ance with Indiana Code 36-9-23-34.

Sec. 51.111. Enforcement.

Those provisions of this Chapter not specifically
dealt with elsewhere shall be enforced by the Direc-
tor of City Utilities and such deputies as Director,
with the approval of the Board of Public Works, may
be appointed for such purposes. Whenever said Di-
rector or any such deputy shall deem it appropriate
to charge any person with a violation(s) of this
Chapter, he shall issue to such person a Notice of
Violation and/or Summons, which shall be process-
ed according to the provisions of Indiana Code
(34-4-32-1) and the Sewer Utility Rules and Regula-
tions, or pursuant to an ordinance adopted in ac-
cordance with I.C. Sub section 36-1-6-9.

Sec. 51.999. Penalty for Violations.

Any person who violates or fails to comply with any
provision of this Chapter or of the Rules and Regula-
tions of the Board of Public Works or Administrative
Orders pertaining thereto, shall be subject to a fine

Legals continued on Page 7S.

ill; Inside City 1.61;

all be based on me-
otherwise meas-
owing charges for

Outside City 75.73
Inside City 51.11;
ide City 36.23
40.67; Outside City

any user in this classi-
customer, there shall
ited by the City. A
ie rate charged to us-

See Legals on Page 6S.

of up to \$2,500.00 per day as set out at Section
10.99 of the City of Fort Wayne Code of Ordinances
or as otherwise provided by Indiana Law. Each day
that such violation(s) or noncompliance continues
shall constitute a separate offense.

SECTION 2. The invalidity of any section, sentence,
clause, paragraph, part or provision of this Ordinance shall not affect the validity of any other section, sentence, clause, paragraph, part or provision of this Ordinance which can be given meaning without such invalid part or parts.

All Ordinances or parts of Ordinances and sections of the Municipal Code of the City of Fort Wayne in conflict herewith are hereby repealed.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and due legal publication thereof.

John N. Crawford
COUNCIL MEMBER

Read the third time in full and on motion by Crawford, and duly adopted, placed on its passage.
PASSED by the following vote;

AYES: Eight
Bender, Crawford, Edmonds, Hall, Hayhurst
Henry, Lunsey, Schmidt
NAYS: None
ABSTAINED: none
ABSENT: one
Ravine
DATED: 7-1-97

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance NO. G-07-97 on the 1st day of July 1997.

ATTEST:
Sandra E. Kennedy
City Clerk

Thomas C. Henry
Presiding Officer

Presented by me to the mayor of the City of Fort Wayne, Indiana, on the 2nd day of July, 1997, at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 9th day of July, 1997, at the hour of 11:45 o'clock A.M., E.S.T.

Paul Helmke
Mayor

I, the Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-07-97, passed by the Common Council on the 1st day of July, 1997, and that said Ordinance was duly signed and approved by the Mayor on the 9th day of July, 1997, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 9th day of July, 1997.

SANDRA E. KENNEDY
CITY CLERK

7--16 #466703 (PART 14 OF 14) #874